

Record,

119

1891.

Inf. Page,

138

15093

Interference.

C. Axelson

G. E. Tewksbury and

S. S. 044 vs

A. K. Keller

sr no 381 404

" " 379 019

Marcus O. Anthony

sr no 372 019

Wm H. Ashwell

sr no 367 201

" 358 5 11

Hugh R. and Thos. Conington &

John F. Barker

sr no 339 125

" 33 023

Flora

sr no 340 511

" 350 57

Leon T. Douglass

vs

vs

vs

Wm L. Madgen

vs

E. T. Gilliland and F. W. Toppan

vs J. F. Gilliland and A. K. Keller

vs Wm H. Gilman

vs

Louis Glass and Wm S. Arnold

sr no 340 627

" 334 11

Coin Operated Phonograph

3/26/91 Glass & Arnold, J. Moore & Depe
A. J. Marshall, City (Assoc.)
189T.

A. K. Keller
70 Redding & Kiddle, N.Y. City
ATTORNEYS

Enter Freeman, Thos. Ewing Jr.
City, Assoc. #155 Broadway
City, Assoc. N.Y. City.

Assoc. Vernon M. Dorsey
918 F. St. City

Johnas. D. Moody
710 Glen St. N.Y. City
L. Deane, City (Assoc.)

Coryngton, Coryngton
9, E. L. Browne, City.

J. E. Barber
9, A. J. C. Birney, Denver, Col.
W. C. Aughinbaugh, City (Assoc.)

E. E. Flora
9, D. Greenfield & Greenfield, City

Leon Frost, Douglass
9, E. W. Ritter Jr., City.

Wm. Leonard Madgen
9, Richards, Los Angeles, City.

Gilliland & Thayer
C/O Thos. Ewing Jr., 155 Broadway, N.Y.
Assoc. Vernon M. Dorsey
918 F. St. City

Gilliland & Keller
7, A. H. Kiddle, N.Y. City
34 Park Row
Enter Freeman
City (Assoc.)

Millard & Gilman
9, C. A. Thayer & Co.
63 Court St. Boston, Mass.
E. C. Jones
City (Assoc.)

Glass & Arnold
9, Denny & Co.
San Francisco, Cal.
H. Evans & Co., City (Assoc.)

Release of
D. J. A. P. Lacey
City

(2-070.)

INDEX.

INTERFERENCE.

No. 15,095.

Keller & Anthony
v.
Ashmole & Congynaton
Congynaton & al.

SUBJECT-MATTER:

Coin Operated
Phonograph.

- 1 Mar. 26-91. Declaration. Prelim. hearing May 18/91
- 2 Apr 28th " Statement of Madgen,
- 3 " " " " Letter to "
- 4 May 12th " Statement of Douglass
- 5 " " " " Letter to "
- 6 " 14th " Statement of Ashwell,
- 7 " " " " Letter to "
- 8 " 18th " Statement of Anthony
- 9 " " " " Letter to "
- 10 " " " " Motion by Glass & Arnold for an extension of time for filing
- 11 " " " " Statements of Flora ^{statements.}
- 12 " " " " " of Keller-Gilliland & Toppam,
- 13 " 19th " Letter to " " " "
- 14 " " " " " " Flora
- 15 " 18th " Disclaimers by Gilliland & Toppam,
- 16 " 21st " " transmitted to primary Ex. Mtg.
- 17 " 22, '91 - Repeal to dissolve by Primary Examination ^{suspended. (See endorsement, paper no. 15.)}
- 18 June 28th Motion granted. Prelim. hearing June 1-91.
- 19 June 8th " Motion by Glass & Arnold ^{for an extension of time for}
- 20 " 9th " Motion granted. Prel. hearing ^{extended to} ^{filing statements.}
- 21 " " " " Letter to Smith. June 22-91.
- 22 June 13. 91 Appeal by Gilliland & Toppam + argument
- 23 " 15th " Notice of hearing
- 24 " 17th " Letter to parties Re case AA no. 15094
- 25 " 22nd " Letter relative to Glass & Arnold preliminary statements,
- 26 July 10. " Supplemental brief for Gilliland & Toppam
- 27 " 30th " Comm'n Decision See paper no. 22,
- 28 " 31st " Notice of "

- 29 Aug 3-91. Proceedings resumed. Prelim-hearing
- 30 Sept 8 " Judgment against Anthony, Achwell, Flora Congdon ^{Aug 23/91}
- 31 Oct 7. Letter to Glass, Arnold, Douglass, Madgen ^{2d Conynghton} ^{and Gilliland & Koeller and Gilman, S.D. Sept 30-91}
- 32 " 8 " Request of Examiner for Suspension
- 33 " 12 " Int. suspended
- 34 " " " Motion by Keller to amend his statements
- 35 Nov 18-91. Re-declaration. Prelim-hearing Dec 19/91
- 36 Dec 8 " Withdrawal of motion filed Oct 13/91 by Keller
- 37 " 10 " " Statement of Axelson, Tewksbury & Olt
- 38 " 11 " " Letter to " " " "
- 39 " 28 " " Judgment against Axelson, Tewksbury & Olt
- 40 " " " Letter to Keller extending ^{Limit of appeal Jan. 18-92} preb. hearing to Jan. 20-92
- 41 " " " " Douglass, Madgen, Glass & Arnold & Glass & Arnold
- 42 " " " " Gilliland & Toppam " "
- 43 Feb 1-92 Times set for taking testimony. Hearing Oct 24/92
- 44 " 11th " Motion by Keller for dissolution
- 45 " 12 " " Transmitted to primary Ex. (see endnote)
- 46 " 15 " Notice of day of hearing. (Feb. 24, 1892)
- 47 Mar 10 " Motion granted
- 48 " " " Notice of decision.
- 49 " 16th " Keller's Exhibit E
- 50 " " " Letter of transmittal
- 51
- 52
- 53 Mar 26-92, Testimony & Exhibits for Keller
- 54 " " " Letter to " "
- 55 " 28 " " Exhibits A and B for " "
- 56 " 29 " " Interference dissolved.

57. Apr. 12 '92. Letter from Gilliland & Weller calling attention to abandonment.

Intf. No. 16.095 Paper No. 1.

Keller v. Anthony

Achwell v. Conyngton

Conyngton v. Barker

et al.

Declaration of Interference of

Mich. 26 18 91

Time for filing statement set

for May 18 18 91

Room No.

All communications should be addressed to
"The Commissioner of Patents,
Washington, D. C."

DEPARTMENT OF THE INTERIOR,

United States Patent Office

Washington, D. C., Mar. 14, 1891

EXAMINER OF INTERFERENCES.

An interference is found to exist between the following cases, and in respect to the invention therein specified, to wit:

CASES.

1. A. K. Keller, of New York City, for
machine for automatically
Operating Phonographs, filed Feb. 14, 1891; Ser. No. 381,404,
whose attorney is Redding + Kiddle, of New York City.
2. A. K. Keller, of New York City, for
Attachments for Operating
Phonographs, filed Jan. 31, 1891; Ser. No. 379,824
whose attorney is Redding + Kiddle, of New York City.
assoc. Foster + Freeman, Washington, D.C.
3. M. O. Anthony, of Cincinnati, Ohio, for
Automatic Feed + Return
Mechanism for Phonographs, filed Nov. 20, 1890; Ser. No. 372,019
whose attorney is Geo. J. Murray, of Cincinnati, O.
4. W. H. Aschwell, of St. Louis, Mo., for electrically
operated machine, filed Nov. 17, 1890, s.n. 371,731,
whose attorney is C. D. Moody, of St. Louis, Mo.,
assoc L. Deane, Washington, D.C.
5. H. R. + J. Conyngham, of Galveston, Tex., for coin-
operated Phonograph, filed Oct. 6, 1890, s.n. 367,204,
whose attorney is J. L. Browne, of Washington, D.C.

- 6., E.E. Flora, of Chicago, Ill. for Coin Operated Phonograph, filed July 31, 1890, S.N. 360,536, whose attorneys are Dyrenforth & Dyrenforth, of Washington, D.C.
- 7., J.F. Barber, of Denver, Col. for Coin Controlled Mechanism, filed July 26, 1890, S.N. 359,985, whose attorney is A.J. O'Brien, of Denver, Col. assoc. W.E. Auglinbaugh, of Washington, D.C.
- 8., H.R. & J. Conyngham, of Galveston, Tex. for Coin Operated Phonograph, filed July 12, 1890, ^{S.N. 358,590}, whose attorney is F.L. Brown, of Washington, D.C.
- 9., J.F. Barber, of Denver, Col. for Coin - Controlled Mechanism, filed June 2, 1890, ^{S.N. 354,023}, attorney A.J. O'Brien, of Denver, Col. assoc. W.E. Auglinbaugh, of Washington, D.C.
- 10., E.E. Flora, of Chicago, Ill. for Coin Operated Phonograph, filed May 5, 1890, S.N. 350,575, whose attorneys are Dyrenforth & Dyrenforth, of Washington, D.C.
- 11., L.F. Douglass, of Grand Island, Neb. for Automatic Coin Controlled Phonograph, filed Apr. 16, 1890, S.N. 348,169, patent 431,883, July 3, 1890, whose attorney of record is F.W. Ritter, Jr. of Washington, D.C.
- 12., W.L. Madgen, of London, Eng. for Coin Freed Machine, filed Apr. 10, 1890, S.N. 347,407, whose attorneys are Richards & Co. of Washington, D.C.

All communications should be addressed to
"The Commissioner of Patents,
Washington, D. C."

Ex. Int.

B.B

DEPARTMENT OF THE INTERIOR,

United States Patent Office,

Washington, D. C.,

, 189

13. E. J. Gilliland and F. W. Lappan, of New York City, for attachments for automatically operating Phonographs, filed Mar. 6, 1890, s. n. 342,875, whose attorney is A. W. Kiddle, of New York City, with Foster & Freeman, of Washington, D. C. as associates.

14. J. F. Gilliland and A. K. Keller, of Adrian, Mich. and New York City, respectively, for automatic attachments for Phonographs, filed Feb. 17, 1890, s. n. 340,687, whose attorney is A. W. Kiddle, of New York City, assoc. Foster & Freeman, of Washington, D. C.

15. L. Glass & W. S. Arnold, of San Francisco, Cal. for Minimizer Phonograph, filed Feb. 15, 1890, s. n. 340,627, attorneys Boone & Acker, San Francisco, Cal. assoc. A. L. Morrell, of Washington, D. C.

16. W. H. Gilman, of Boston, Mass. for Coin Operated Phonograph, filed Feb. 8, 1890

s.n. 339,762, attorney C.A. Shaw & Co., of Boston, Mass, assoc. F.C. James, of Washington, D.C.

17, L. Glass and W.S. Arnold, of San Francisco, Cal. for Coin Actuated Attachments for Phonographs, filed Dec. 18, 1889, s.n. 334,196, patent 428,750, May 27, 1890, attorneys of Record Dewey & Co., of San Francisco, Cal, assoc. A.H. Evans & Co., of Washington, D.C.

Issue.

The combination, with a phonograph, of coin-controlled mechanism for throwing said phonograph into operation, and automatically operating means for raising and lowering the phonograph-arm.

The foregoing issue covers substantially claims 1, 2, 7 to 10, 13, 14, 23, 24, 26, and 41 of Keller's later application; claims 5, 10, 12, 14, 19, 26, 27, 29, 32, 37, 42, 46, 48 to 52, 54 to 57

DEPARTMENT OF THE INTERIOR,

United States Patent Office,

Washington, D. C.,

189

and 60 of Keller's earlier appli-
cation; claims 1, 2, 3, and 6 of
Anthony's application; claim
8 of Ashwell's application; claim
8 of the Conyngton's later application;
claim 10 of Flora's later applica-
tion; claims 3, 4, 5, and 6 of Bar-
ber's later application; claims
2 and 11 of the Conyngton's earlier
application; claim 3 of Barber's
earlier application; claims
7 and 8 of Flora's earlier application;
claim 2 of Douglass' patent; claims
1, 3, 4, and 5 of Madgen's application;
claims 1 to 33, inclusive, of Gill-
iland & Keller's application; claims
1 to 12, inclusive, of Gilliland & Top-
fan's application; claim 1 of
Glass & Arnold's application; claims
5 and 9 of Gilman's application;
and claim 23 of Glass & Arnold's patent

Simpson
1st and 2nd

W. L. Aughinsburgh,
Examiner

15,095 —

2.



Keller vs. xxxxxxxx

xxx VS.

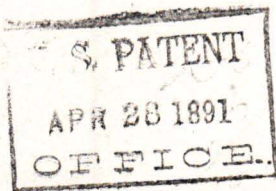
Glass & Arnold.

STATEMENT OF

Magdalen

Filed April 28, 1891.
Approved Sept. 1, 1891.

C. F. C.



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Interference in the United States Patent Office.

William L. Madgen

vs

Anthony; Ashwell; et al.

No. 15,095.

Subject-matter:- Coin Freed Machines.

Preliminary Statement of W.L. Madgen.

William L. Madgen, of London, County of Middlesex, England, being duly sworn, doth depose and say that he is a party to the interference declared by the Commissioner of Patents March 14, 1891, between his application for patent filed April 10th, 1890, No. 347 407, and the applications of M.O. Anthony; W.H. Ashwell; J.F. Barber; H.R. & T. Conyngton; patent No. 431883 granted to L.F. Douglass; applications of E.E. Flora; J.F. Gilliland; & A.K. Keller; E.T. Gilliland & F.W. Toppan; W.H. Gilman; patent No. 428 750 to Glass & Arnold; applications of Glass & Arnold; A.K. Keller; for an improvement in Coin Freed Machines;

That he made the invention set forth in the declaration of interference being at that time in *London, England,*

that patents for such invention were applied for and obtained as follows:

*Application filed in Great Britain
December 7th 1888, Patent numbered
14937 of 1888 and dated December
7th 1888.*

That such invention was fully described in

the printed

specification of the aforesaid British
patent No 14934 of 1888

That knowledge of such invention was introduced into the United
States under the following circumstances:

On the 19th of March 1890 ^{through his agents Tell-Wilding of London} the said William L. Madgen wrote
a letter to Richards & Co residing at
38 Broadway New York. N.Y. U.S.A describing such inven-
tion and soliciting his services in procuring a patent therefor in
the United States. This letter, he is informed and believes, was
received by the said Richards & Co
on April 7th 1890. ^{new}

William Leonard Madgen

Subscribed and sworn to before me this Sixteenth day of
April - 1891.

Frederick Wright

Notary Public
at Dunstable, Herts. London



15095-6

Kellerus x x x x x x x
x x VS. *Glass & Arnold*

STATEMENT OF

Ashwell

Filed *May 14, 1891*
Approved *Sept 1, 1891*

C.F.C.

U. S. PATENT
MAY 14 1891
OFFICE

Subject matter: Electrically Operated Machine.
M. O. VERNON, ELIOT.
WILLIAM H. VERNON, JR.
INTERFERENCE IN THE UNITED STATES PATENT OFFICE

INTERFERENCE IN THE UNITED STATES PATENT OFFICE, No. 15,095.

WILLIAM H. ASHWELL,

vs.

M. O. ANTHONY, ETAL.

Subject Matter: Electrically Operated Machine.

PRELIMINARY STATEMENT OF WILLIAM H. ASHWELL.

State of Missouri, City of St. Louis.

WILLIAM H. ASHWELL, of St. Louis, Missouri, being duly sworn deposes and says that he is a party to the above entitled interference declared by the Commissioner of Patents March 14, 1891; that he conceived the invention set forth in the declaration of interference, on or about the 6th day of August, 1890, and on or about the same day he explained it to others; that to the best of his recollection he never made a drawing or a model of said invention, but that right away, after said conception and disclosure to others, he undertook the construction of a full sized machine embodying said invention, which was completed and successfully operated in the presence of others on or about August 8, 1890, and that on or about Sept 4, 1890, said and similar machines went regularly into public use, and that he has since manufactured many other similar Machines for use and sale..

Wm H Ashwell

Subscribed and sworn to before me this 12th day of

May, 1891.

My Commission Expires December 27th 1894

*Geo A Slater
Notary Public*

15,075 —

8.

Kellner, XXXXXXXX
XX VS:

Glass & Arnold

STATEMENT OF

Anthony

Filed

Approved

UNITED STATES PATENT OFFICE

in reference to

P. D.

Oct 10

UNITED STATES PATENT OFFICE.

In re interference, "B B

Anthony
Ashwell
Barber

Conyngton & Conyngton
Douglass Pat. 431,883

STATE OF OHIO.

COUNTY OF HAMILTON,

Hrg

J. L. Gilliland & Kelso

Gilliland & Loppin

Gilman

Glass & Arnold Pat. 428,730

U. S. Keller v. W. L. Madgen

)
:SS

No. 13,69

Anthony's Prel
Statement.

Marcus O. Anthony, being first duly sworn doth depose and say that he is a party to the above entitled interference; and he conceived the invention contained in claim 1, 2, 3, 4, 5, 6 of his application declared to be in this Interference, on or about the 12th day of July 1890, he made sketch of said invention and then explained it to others; that on the 24th day of July 1890 he made full working drawings of the same; that on or about the 7th day of August 1890, he had his first machine, which was fully tested on or about the 17th day of September 1890, that this machine was put into practical operation about the 8th day of October 1890, and has been constantly in successful operation ever since, and has never failed to work.

Marcus O. Anthony.

Sworn to and subscribed before me this 12th day of May, 1891.

David S. Oliver

Notary Public, Hamilton Co,

Ohio.

Preliminary Statement
of Ellenorh C. Flora,
Law-interference "B.B." No. 15095,
between

E. E. Flora, W. C. Anthony,

W. B. Achrell, J. F. Barber,

L.R. & T. Conington, L. T. Douglass,

J. F. Gilliland & A. K. Keller,

G.P. " " F. A. Tappan,

H. H. Gilman & L. H. Rice & H. S. Arnold,
O. K. Keller, and H. L. Magdalen

No. 360536, filed July 31, 1890.
"Coin Operated Phonograph."

"Coin Operated Phonograph."

DYRENFORTH & DYRENFORTH,
PATENT LAWYERS,
225 DEARBORN STREET,
CHICAGO.

68765

J. H. J.

Approved
Filed

Nov 18 / 91
Dec 1 / 91

STATEMENT OF

Füllen no. xxxxxx.

11-5293

I N T H E
U N I T E D S T A T E S P A T E N T O F F I C E .

IN RE INTERFERENCE "BB". No. 15,095,)

BETWEEN)

E. E. FLORA,)

M. O. ANTHONY,)

W. H. ASHWELL,)

J. F. BARBER,)

H. R. AND T. CONYNGTON,)

L. F. DOUGLASS,)

J. F. GILLILAND & A. K. KELLER,)

E. T. GILLILAND & F. W. TAPPAN,)

W. H. GILMAN,)

L. GLASS & W. S. ARNOLD,)

A. K. KELLER,)

W. L. MAGDEN.)

COIN OPERATED

PHONOGRAPH.

P R E L I M I N A R Y S T A T E M E N T O F E L L S W O R T H E. F L O R A .

ELLSWORTH E. FLORA, of Chicago, in the County of Cook, and State of Illinois, being duly sworn, doth depose
a
and say that he is party to the interference declared by
^
the Commissioner of Patents, March 14, 1891, between
Ellsworth E. Flora's application for letters patent,
filed May 5, 1890, serial number 350,575, and the
applications of M. O. Anthony, W. H. Ashwell, J. F. Barber,

H. R. and R. Conyngton, L. F. Douglass, J. F. Gilliland & A. K. Keller, E. T. Gilliland & F. W. Tappan, W. H. Gilman, L. Glass & W. S. Arnold, A. K. Keller, and W. L. Magden, for Coin Operated Phonographs; that he conceived the invention contained in the claim of his application declared to be involved in this interference on or about the eleventh day of April, 1890; that on or about the same day he made drawings of the invention, and at the same date he first explained the invention to others; that he made no model showing the invention, but embodied it in a full-sized coin-operated phonograph, which was completed about the seventeenth day of April, 1890; that the said phonograph was successfully operated at the shop of the Franklin Electric Company, at Chicago, County of Cook, State of Illinois; that the same has since been continued in use, and that he has manufactured others for use and sale.

Ellsworth B. Howe

Subscribed and sworn to before me this 14th day

of May 11, 1891.

Willie J. Frost
NOTARY PUBLIC.

15,095 — 12

G. J. - 15095



Keller vs. XXXXXXXX
X+ VS.

Glass & Arnold

STATEMENT OF

Gilliland and Poppan.

Filed May 18, 1891.
Approved Sept 1, 1891.

Approved Jan'y 25, 1892.
See papers 42.



G.F.B.

UNITED STATES PATENT OFFICE.

In the Matter of the :
INTERFERENCE declared between :
the application of GILLILAND : Interference No. 15,095.
& TOPPAN, SERIAL NO. 342,875, :
filed March 6, 1890, and others.: :

-----o-o-c-----

SUBJECT: ATTACHMENTS FOR AUTOMATICALLY OPERATING PHONOGRAPHS.

PRELIMINARY STATEMENT OF GILLILAND & TOPPAN.

-----o-o-c-----

EZRA T. GILLILAND and FRANK W. TOPPAN, being severally
duly sworn, depose and say: that they are the applicants
named in the above application, Serial No. 342,875, and
parties to the above interference; that the subject-matter
involved in the said interference and with which their said
application is adjudged to interfere, is as defined by the
Patent Office: "The combination with a phonograph, of coin-
"controlled mechanism for throwing said phonograph into
"operation, and automatically-operating means for rais-
"ing and lowering the phonograph-arm"; that they con-
ceived the invention shown, described and claimed in their
said application in or about the month of November, 1887;
that they made drawings illustrating said invention in or
about the month of December, 1887; that they first disclos-
ed said invention to others in or about the month of Decem-
ber, 1887; that they made a full sized working model or
operating machine embodying said invention in or about the
month of December, 1889, which was successfully used.

Ezra T. Gilliland

Frank W. Toppan

Subscribed and sworn to by the said EZRA T. GILLI-

LAND before me *C. Herbert Burns* a Notary Public
at *the City and County of New York*
this *seventeenth* day of *April* 1891.

C. Herbert Burns
Notary Public (271)
N.Y. Co.

Subscribed and sworn to by the said FRANK W. TOPPAN,
before me *John B. New Consul General*
of the *United States of America*
at *London England*

this *29* day of *April* 1891.

Witness my hand and
Seal of Consulate General
John B. New
Consul General

Intf. No. 15095 Paper No. 2

*Keller
vs
Anthony et al
Appeal by
Gilliland & Toppan
And Argument*



United States Patent Office

In the Matter of the In-
terference No. 15,095,
between the application of
Gilliland and Toppan, Ser-
ial No. 342,875, filed
March 6th 1890, and ors.

Coin-controlled Phonographs

Appeal to the Commissioner
in Person and argument in
support.

A. W. Kiddle,
Counsel for Gilliland
and Toppan,
N.Y. City.

28
For reasons set forth in the
decision of even date herewith
rendered in the interference,
entitled Keller v. Ott v. Conyng-
ton and Conyngton v. Gilliland
and Toppan v. Gilman, No. 15,092,
the decision of the examiner is
affirmed.

Nathaniel L. Frothingham,
Acting Commissioner.
July 30, 1891.

UNITED STATES PATENT OFFICE.

-----X
In the Matter of the INTERFERENCE :
No. 15095, between the applica- :
tion of GILLILAND AND TOPPAN, Serial :
No. 342,875, filed March 6th. 1890, :
and others. :
-----X

SUBJECT: Attachments for Automatically Operating Phonographs.

Hon. COMMISSIONER OF PATENTS,

Sir:

Gilliland and Toppan, the applicants above named, parties to the above interference hereby appeal to the Commissioner of Patents in Person from the decision of the Primary Examiner refusing to grant their request to dissolve the above interference and withdraw their above mentioned application therefrom, and the following are the reasons of appeal among others:

FIRST: That the Examiner has erred in refusing to dissolve the said interference in view of the facts and circumstances disclosed by the Gilliland and Toppan application and the document filed by them in the above interference on May 18th. 1891.

SECOND: That the Examiner has erred in refusing to grant the request of Gilliland and Toppan to withdraw their application from the above interference in view of the averments made by Gilliland and Toppan in said document filed May 18, 1891, that they have not claimed and do not claim in their said application the subject-matter in interference, and in view of the claims themselves in their said application.

THIRD: That the Examiner has erred in deciding that the said document of Gilliland and Toppan filed May 18, 1891, is unsuitable and indefinite.

FOURTH: That the Examiner has erred in deciding that the said document of Gilliland and Toppan filed May 18, 1891, is "too indefinite to comply with the requirements of any one of the Rules of Practice."

S T A T E M E N T.

On March 6, 1890, Gilliland and Toppan, above named, filed an application for Letters Patent on a joint invention of theirs, relating to Attachments for Automatically Operating Phonographs, and on the 26th day of July, 1890, an interference was declared between their said application and another pending application, said interference being No. 14,625, and the preliminary statements have been duly filed therein; thereafter, on the 14th day of November, 1890, another inter-

ference was declared between their said application and others said interference being No. 14,844, and the preliminary statements have been duly filed therein; thereafter on the 11th day of December, 1890, another interference was declared between their said application and others, said interference being No. 14,914, and the preliminary statements have been duly filed therein; thereafter, on the 14th day of March, 1891, seven additional interferences were declared between their said application and others, the said interferences being Nos. 15,092, 15,094, 15,095, 15,096, 15,097, 15,098 and 15,099, including this interference, and from which interferences Gilliland and Toppan have asked to have their application withdrawn, and for that purpose that the last mentioned interferences be dissolved.

Thus, the Gilliland and Toppan application is involved in ten separate contests, in three of which issue has been joined by the filing of the preliminary statements of the several parties contestant; in the remaining seven cases, however, Gilliland and Toppan are involved as claimants for Letters Patent on their specific concrete and distinct patentable inventions of particular mechanisms for automatically operating Phonographs through the medium of a coin, with other applicants who claim broadly the same idea, but without regard to the particular mechanical construction or embodiment of that idea. The invention of Gilliland and Toppan is patentable else it would not have been included in the interferences. (Lindsay vs. McDonough, O.G. June 9, 1891.)

P O I N T I .

- (1) Do the claims of the Gilliland and Toppan application conflict with the issue as to their separate patentability?
- (2) Does the fact that other applicants claim the subject-matter of the issues, which Gilliland and Toppan do not claim, bar Gilliland and Toppan from receiving a patent for their separate and distinct concrete invention?
- (3) Does the fact that Gilliland and Toppan have claims for specific mechanism covered by the issues interfere with the right of the claimants for the broader issues to receive a patent or patents therefor?

Assuming that the interferences have been properly declared and that the Gilliland and Toppan application stands related to the issues as species to genus (as to which see *Ex parte Smith*, 44 O. G. 1185, last column), the question to be determined by Gilliland and Toppan, under the circumstances above stated, is what are they to do to get out of the seven last mentioned interferences into which they have been unintentionally dragged, although they have not claimed and do not claim in their said application the subjects-matter involved in said interferences; and they are especially desirous of proceeding correctly, so that they will protect to themselves the valuable invention which they have made as specifically shown, described and claimed in their application which covers an excellent practical and efficient me-

chanism, or apparatus, designed to be attached to a phonograph by means of which a phonograph which normally remains inoperative, may be thrown into operation after the deposit of a suitable coin. The mechanism which they have shown and described is all that they have claimed; they have not claimed any one of the inventions which are defined by the Examiner in the declarations of the said seven interferences, and not having claimed said inventions it would seem that there is nothing for them to disclaim in the ^{sense} ~~excuse~~ of relinquishing of a present claim, and it seems only reasonable that after an examination of their claims, it is found that they do not cover the issues, and in addition, after Gilliland and Toppan have made a separate, distinct and positive averment that they have not claimed the issues and do not claim them, their application should be withdrawn from the interferences, and for that purpose that the interferences should be dissolved; hence, it is that Gilliland and Toppan executed and filed the document which was filed on the 13th of May, 1891, above referred to.

Rule 94 of the Rules of Practice says: "Interferences will be declared in the following cases when all the parties claim substantially the same patentable invention."

Now, if the issues define the inventions of some of the applicants, they do not define Gilliland and Toppan's invention; they cover very much broader inventions, for which Gilliland and Toppan make no claim; the issues describe no specific

mechanism, ~~xxxx~~ the Gilliland and Toppan claims do, and while Gilliland and Toppan might not be able to practice their invention, even if they should obtain a patent, without infringing upon the patent of some one of the other interfering parties who may obtain a patent on the broad issues, yet that circumstance does not affect the right of Gilliland and Toppan to have a patent issued to them, which right does not depend upon whether or not the device would infringe some other patent, concerning which question the Patent Office has nothing to do; but the right to a patent does depend upon the novelty and utility of the particular mechanism or device for which a patent is solicited. It seems to be well established that it is not the function of the Patent Office to decide in advance of the issue of patents the question of infringement, and that its only proper function is to determine the question of priority of invention between two or more applicants who claim substantially the same concrete invention.

In view of the foregoing it is submitted that the answer to each of the questions above under Point I should be in the negative and the interferences should therefore be dissolved as there is no interference in fact with ~~xxx~~ reference to the question of patentability, and the rights of Gilliland and Toppan and the claimants for the broad issues to receive separate patents for their separate inventions, do not conflict.

P O I N T I I .

The document filed by Gilliland and Toppan herein on May 13th. 1891 is not unsuitable, indefinite or ambiguous; it is a disclaimer although it does not contain the word "disclaim"; no particular form or language of disclaimer is required by the Rules of Practice.

The Rules of Practice are promulgated to point out to parties seeking Letters Patent for inventions, the practice which is to be followed as far as possible in all cases; but as all rules which are made in advance to cover all future contingencies, the rules regarding the practice before the Patent Office do not in some instances direct a method of procedure which, if employed, will do substantial justice; and indeed Rule 222 of the set published in April 1888 provides that:

"All cases connected with the intricate and multifarious proceedings arising from the working of the Patent Office, which are not specially defined and provided for in these rules, will be decided in accordance with the merits of each case under the authority of the Commissioner; and such decision will be communicated to the interested parties in writing",

and in other places the rules state that the procedure in the Patent Office shall follow the proceedings which obtain in courts of equity.

The document executed and filed by Gilliland and Toppan herein and in each of the interferences above referred to, is in language as follows:

"We, Ezra T. Gilliland and Frank W. Toppan, appli-

"cants above named and parties to the above interference, do
"heroby aver that we have not claimed and do not claim in
"our above mentioned application the subject-matter in in-
"terference as defined by the Patent Office in the above
"interference and we therefore request that our said appli-
"cation be withdrawn from said interference and for that
"purpose that the said interference be dissolved; but what
"we do claim as our invention is specifically set forth in
"the claims of our said ~~invention~~; "application";

and this document is a proper statement to be filed under the
circumstances in these interferences.

As above stated, Gilliland and Toppan do not claim
the broad issues in interference, but having been included in
the interferences, it is but just that they should set them-
selves right before the Patent Office and specifically aver
that fact with a view to getting out of the interferences;
but saving to themselves their precise invention, they then
state that what they do claim as their separate and distinct
invention is specifically set forth in their application.
The document filed by them is a disclaimer in effect and in
terms even if it does not contain the word "disclaim". We
find the word "disclaim" to be defined in standard dictionar-
ies (Webster and Stormonth) to mean "To relinquish or to deny
having a claim; to reject all claim to." Certainly the
paper filed by Gilliland and Toppan relinquishes all claim
(if they ever made any claim) to the broad issues and denies
all claim to them and hence is in fact a disclaimer.

The Examiner of Interferences referred this docu-
ment to the Primary Examiner, with the endorsement that it
"seems to comply with the requirements of paragraph 2 of Rule

107." which is the rule that was promulgated to apply to cases substantially like the interferences in question, and was before the applicants at the time they prepared and filed the paper in which they request that the interferences be dissolved; and the above document filed by them is not in conflict with its provisions, but was prepared with a belief that it was in compliance with every provision of the rules and the law. The first part of the rule provides that

"an applicant involved in an interference may x x x
"before the date fixed for the filing of his preliminary
"statement, in order to avoid the continuance of the in-
"terference, disclaim under his own signature attested by
"two witnesses, the invention of the particular matter in
"issue but upon such disclaimer and the cancellation of any
"claims involving such interfering matter, judgment shall
"be rendered against him, and a copy of the disclaimer shall
"be embodied in, and form part of, his specification."

But this portion of the rule does not apply in these interferences, since none of Gilliland and Toppan's claims cover the issues in any one of the interferences.

The second part of that rule provides for a different state of affairs, and is as follows:

"But if the interference shall have been declared between an application having a generic claim and one having a subordinate specific claim, the applicant making the specific claim may disclaim the matter in issue, as hereinbefore provided, without cancelling his claim."

That portion of the rule seems to point out the proper practice in cases like these interferences, when a person making the specific claim desires to get rid of the interference, and the phrase "may disclaim, as hereinbefore provided" means that such applicant may "disclaim under his own signature attested by two witnesses, the invention of the particular

"matter in issue;" that is, it refers the applicant to the first part of the rule which directs him what to do to get out of the interference, i.e. to disclaim and then how a document filed to effect the disclaimer shall be executed; but nowhere does the last part of the rule say that such disclaimer shall be embodied in, and form part of, the applicant's specification. However this may be, I do not find that the rules require that an applicant or his attorney should file with every document a statement concurrently therewith that such document is filed to comply with the provisions of any specific rule, and whether or not the paper referred to and filed by Gilliland and Toppan is in form just exactly as the papers which have heretofore been filed in similar cases in an attempt to comply with the last part of rule 107, seems to be immaterial so far as these cases are concerned, if the paper filed by Gilliland and Toppan is a document which clearly subserves every purpose of what is technically known as a disclaimer under rule 107. While, therefore, the paper filed by Gilliland and Toppan may not be in the exact form as is "recommended" (Rules of Practice, p. 5, Memo. of Commissioner Hall) to be followed by the Rules of Practice and as contained in the Appendix to the Rules, nevertheless, the result is just the same in that it is clear that Gilliland and Toppan have not made any claim in their application to the inventions as defined in the issues and do not make any claim thereto; and this is the only conclusion that can arise from the filing

of a disclaimer, which would in language follow the form set out on page 77 of the printed rules. Whether or not the document which is filed to effect this result does or does not contain the word "disclaim", so long as the meaning is clear and it does not conflict with any substantial provision regulating the granting of patents, the practice before the Patent Office or the rules and principles of justice and equity, it should be held sufficient; and it is submitted that the paper filed is not indefinite or ambiguous in any degree, since its language is most positive and the averments made therein can leave no doubt as to the meaning or intention of the applicants.

The Examiner has refused to dissolve the interferences and withdraw the Gilliland and Toppun application therefrom, as requested, for the reasons: that he considers the paper filed "unsuitable" (not illegal); that it "appears to be expressed more in the nature of a motion for the dissolution of the interferences under rule 122" (and this I presume because a request to dissolve the interferences was included in the statement which amounts to nothing more than asking the Office to do something which, under the circumstances, it should do); because a copy of the disclaimer (so-called) was not forwarded to be embodied in, and form part of, the specification; and because the paper is alleged to be indefinite.

As before stated, the last part of rule 107, which only can apply if any rule does apply to these cases, does not require that a disclaimer shall be embodied in the specifica-

tion; but if the Commissioner is of opinion that, under the circumstances, the applicants should make and execute disclaimers in language embodying precisely all the issues in the interferences, notwithstanding that the applicants have not and do not claim them, and have so already specifically stated, and that such disclaimers shall be embodied in, and form part of, the specification, Gilliland and Toppan respectfully request instruction as to what such disclaimers shall contain under "in accordance with the merits of these cases" Rule 229, above referred to, for it seems certainly to be a great hardship to require Gilliland and Toppan to disclaim in their specification in language as follows: "We do not ~~disclaim~~" etc. etc., seven different times serially the language of the issues in the seven interferences. How far such seven separate disclaimers in the specification would injure or affect Gilliland and Toppan's rights as the inventors of their valuable invention, as specifically pointed out in their claims, and limit, modify or change the scope or construction of those claims hereafter, should a patent be granted them, it is impossible to foresee; but it is submitted that no just reason can be advanced for requiring an applicant for a patent who has complied with all the statutes of the United States and the Rules of Practice of the Patent Office to disclaim in his specification one, two, and seven times seven separate subjects matter of invention, which, upon an examination of his claims, is apparent on the face of them that he does not and has not

claimed, thereby creating an unnecessary incongruity on the face of the patent when granted which manifestly would result in great hardship to the patentee. It may be asked, - why some one general disclaimer is not formulated to embody the subjects-matter of the issues and incorporate that in the Gilliland and Toppan specification (if it is right and just that any disclaimer should be embodied in the specification of this application at all); in reply to that I would say that it would seem to be a sufficient reason for the almost impossibility of framing such a disclaimer, that the Patent Office in these interferences has itself found it necessary to subdivide the issues in as many different counts as there are interferences and more besides; whereas, if the contrary were feasible, one broad issue would have been framed, at least it is so believed, which would include all the applications that have been involved in the many interferences relating to this subject.

Finally, it is submitted

(a) that the claims of the Gilliland and Toppan application do not cover the broad issues as defined by the Patent Office in the several interferences;

(b) that the claims of the Gilliland and Toppan application do not conflict with the issues herein as to their separate patentability;

(c) that the fact that other parties claim the broad subjects-matter of the issues, which Gilliland and Toppan do not claim, does not bar Gilliland and Toppan from receiving a

patent, for the separate and distinct concrete invention;

(d) that the fact that Gilliland and Toppan have claims for specific mechanism covered by the issues does not interfere with the right of the claimants for the broader issues to receive separate patents therefor;

(e) that the rules of Practice do not require that in interferences between applications containing generic and specific claims the party claiming the specific invention shall file a disclaimer in any particular language;

(f) that the last part of rule 107 does not prescribe that an applicant claiming the specific invention and filing a disclaimer of the broader invention shall embody such disclaimer in his specification;

(g) that the paper filed by Gilliland and Toppan herein on the 18th day of May, 1891, above referred to, is in substantial compliance with the Rules of Practice and is not contrary to or in contravention of any of said rules;

(h) that the said paper is a paper which is not ambiguous or indefinite;

(i) is a paper which clearly and positively sets forth the intention of Gilliland and Toppan; is a paper which clearly and positively states that Gilliland and Toppan have not claimed and do not claim the invention in issue in the several interferences;

(j) is a paper which amounts to a disclaimer in intention and effect, if not in precise language;

(k) is a paper which it was right and just for Gilliland

and Toppan to file in the said interferences; And therefore
it should be received by the Patent Office and the request
therein contained should be granted and the application of
Gilliland and Toppan should be withdrawn from the said inter-
ferences and the interferences should for that purpose be
dissolved.

Respectfully submitted,

A. W. Thack

Atty for Gilliland & Toppan

Dated New York, June 10th 1891.

Joseph Freeman

Associate Atty

Intd. No. 15096 Paper No. 28

Keller

vs

Anthony et al

Notice of Commr's
Decision

July 31. '91

All communications should be addressed to

"The Commissioner of Patents,
Washington, D. C."

Duplicate.

DEPARTMENT OF THE INTERIOR,

United States Patent Office,

Washington, D. C., July 31, 1891.

In the matter of the

interference of

Keller vs. Anthony

Petition.

vs. Ashwell et al

Case B^B

Sir:-

You are hereby informed that the decision of the Acting
Commissioner, on the above petition is as follows:-

"For reasons set forth in the decision of even date here-
with rendered in the interference, entitled Keller v. Ott v. Con-
yngton and Conyngton v. Gilliland and Toppan v. Gilman, No. 15,092,
the decision of the examiner is affirmed."

By direction of the Commissioner,

Very respectfully,

Samuel Surp

Chief Clerk.

Gilliland & Toppan,

% Foster & Freeman,

City.

Indf. No. 15,095 Paper No. 30

Keller v. Anthony
v. Ashwell et al

Judgment against
Anthony, Ashwell,
Flora Conynghton and
Conynghton, Barber,
Gilliland & Keller
and Gilman.

Sept. 8-'91.

Recorded Vol. 37. p. 369

2-067.

DEPARTMENT OF THE INTERIOR,

United States Patent Office,

Washington, D. C., Sept. 8th 1891.

IN RE INTERFERENCE

Keller v. Anthony v. Ashwell v. Conyngton

No. 15,095.

& Conyngton v. Barber v. Flora v. Douglass

Before the Examiner of Interferences.

Madgen v. Gilliland & Toppan v. Gilliland & Keller

v. Gilman v. Glass & Arnold

Subject-matter: Coin Operated Phonograph.

The preliminary statements filed by Anthony, Ashwell and Flora, junior parties, failing to overcome the prima facie case made against them respectively by the respective dates of filing applications, and Conyngton & Conyngton, Barber, Gilliland & Keller and Gilman, also junior parties having each failed to file any statement within the time allowed for that purpose, judgment on the record is accordingly hereby rendered to the effect that neither Anthony, Ashwell, Flora, Conyngton & Conyngton, Barber, Gilliland & Keller nor Gilman was the first to invent the subject-matter in issue in accordance with the provisions of Rule 114. Limit of appeal will expire Sept. 30, 1891.

H. H. Orick

Acting Examiner of Interferences.

15,045 — 12,34

Keller vs. Longlass
vs. Madgen

Gilliland & Poppa
vs.

Glass & Arnold

STATEMENT OF

Keller

Filed Oct. 12, 1891.
~~Approved~~ Dec. 28, 1891.

Approved July 25, 1892.
S. W. Parker H. O. A. T. C.

U. S. PATENT
OCT 12 1891
OFFICE

UNITED STATES PATENT OFFICE.

In the Matter of the Interference :
declared between the application of :
ALBERT K. KELLER, Serial No. 379,824 : INTERFERENCE
filed January 31, 1891 and another :
application of said Keller, Serial : No. 15,095.
No. 381,404, filed February 14, 1891, :
and other applications. :

SUBJECT: MACHINES FOR AUTOMATICALLY OPERATING PHONOGRAPHS.

PRELIMINARY STATEMENT OF ALBERT K. KELLER.

ALBERT K. KELLER, being duly sworn deposes and says
that he is the applicant in both the above named applications
Serial No. 379,824 and Serial No. 381,404, and is a party to
the above entitled Interference; that he conceived the inven-
tion set forth in the declaration of Interference herein in or
about the month of July 1887; that he made drawings illustrat-
ing said invention in or about the month of July 1887; that
he first disclosed said invention to others in or about the
same month of July 1887; that he made a full-sized working
model or operating machine which embodied said invention in or
about the month of November 1887 which was successfully used;
and that a large number of machines embodying said invention
have been since made and are now in practical and successful
use and operation throughout the United States.

Albert K. Keller.

Subscribed and sworn to before me this 16 day of May 1891

Chas. G. ...
Notary Public
W. C.

United States Patent Office.

In the matter of the Interference :
declared between the application of :
Albert K. Keller, Serial No. 379,824 :
filed January 31, 1891 and another appli- :
cation of said Keller, Serial No. 381,404, Interference
filed February 14, 1891; and other
applications. No. 15,095.

Subject: Machines for Automatically Operating Phonographs.

Amended Preliminary Statement of Albert K. Keller.

Albert K. Keller, being duly sworn deposes and
says that he is the applicant in the above named applica-
tion Serial No. 379,824 and is a party to the above enti-
tled Interference, that he conceived the inventions set
forth in the declarations of Interference herein in or
about the month of July 1887; that he made drawings illus-
trating said inventions in or about the month of July 1887;
that he first disclosed said inventions to others in or
about the same month of July 1887; that he made a full-
sized operating machine which embodied said inventions in
or about the month of November 1887 which was successfully
used; that machines embodying said inventions were manufac-
tured under his direction in or about the month of November
1889; which were successfully used and operated and that
from that date to the present time the work of manufactur-
ing and introducing throughout the United States machines
embodying the said inventions has been prosecuted vigorous-
ly and continuously with his cooperation. *Albert K. Keller*

Subscribed and sworn to before me

this 10th day of October 1891.
Paul Goshorn
Notary Public, Kings Co. N.Y.

Memorandum: In relation to amended preliminary statements filed by O. L. Kelley in Thermisgator Phonograph Infringements, on the 13th of Oct., Infringences 14846^V & 14848^V.

The consents of all the parties to these cases were obtained to the filing of the new statement. The written consents being filed therewith on Oct. 13, 1891. Since that date no new parties have been added. It, therefore, is requested that the Office accept the statements so filed, or if refused by filed, grant permission for them to be properly filed.

Infringences 14847^V & 15098^V

The written consents of all the parties to these cases were filed with the amended preliminary statements on Oct. 13, 1891. Owing probably to a confusion in the Patent Office, ~~these~~ the receipt of these was not acknowledged and on Nov. 2, 1891, the infringences were declared into new parties. The Office is therefore requested to accept these statements, under no time.

Infringences 15092^V, 15095^V, 15096^V, 15097^V, and 15099^V.

In these cases the preliminary statements were ~~sent~~ accompanied by a suitable motion accompanied by an affidavit as consents of all ~~the~~ parties to the filing of the amended.

ed statements could not be obtained, no
action was taken by the Office on these
motions and subsequently the interferences
were redeclared, and new parties added. It is
requested that the Examiner of Interferences take
up these motions and grant leave to file
the said statement.

Interference 15094.

In this case through inadvertence
no affidavit was filed as was the case in
Interferences 15092, 15095 etc., to which in
other respects it is similar. If the Examiner
will consider the motion a suitable af-
fidavit will be filed as to the reason for
filing the amended statement.

Respectfully submitted
W. H. Dancy
Ass. Atty for Keller.

15095 Paper No. 33

Thurston, Tempe-
rary & Att. v. Keller
et al.

Re Declaration of Interference of
Nov. 18 1891

Time for filing statement set
for Dec. 10 1891

Dec 10

All communications should be addressed to
"The Commissioner of Patents,
Washington, D. C."

DEPARTMENT OF THE INTERIOR,

United States Patent Office,

Recec of
Intf. BB

#15095

Washington, D.C., Nov., 2, 1891

Examiner of Interferences.

An interference is found to exist between the following cases, and in respect to the invention therein specified, to wit:

CASES.

1. C. Axelson, G.E. Tewksbury and S.S.Ott of Topeka, Kansas, for Coin Operated Mechanism for Phonographs, filed July 25, 1891; Serial No. 400,683, whose attorney is R.S. & A.P. Lacey, of Washington, D.C.

2. A. K. Keller, of New York City, for Machine for Automatically Operating Phonographs, filed February 14, 1891; Serial No. 381,404, whose attorney is Redding & Kiddle, of New York City, assoc. Foster & Freeman, Washington, D.C.

3. A.K. Keller, of New York City, for Attachments for Operating Phonographs, filed January 31, 1891; Serial No. 379,824,, whose attorney is Redding & Kiddle, of New York City, assoc. Foster & Freeman of Washington D.C.

Thomas Ewing, Jr. of 155 Broadway, New York City, is attorney for E.T. Gilliland the sole assignee in Keller's applications.

4. L.F. Douglass, of Grand Island, Nebraska, for Automatic Coin Controlled Phonographs, filed April 16, 1890 Serial No. 348,169, Patent 431,883, July 3, 1890, whose attorney of record is F.W. Ritter, Jr. of Washington, D.C.

5. W.L. Madgen, of London England, for Coin Freed Machine, filed April 10, 1890, Serial No. 347,407, whose attorneys are Richards & Co., of Washington, D.C.

6. E.T. Gilliland and F.W. Toppan, of New York City, for Attachments for Automatically Operating Phonographs, filed March 6, 1890, Serial No. 342,875, whose attorney is ^{Thomas Ewing Jr} A.W. Kiddle of New York City, with Foster & Freeman, of Washington, D.C., as associates.

7. Glass & W.S. Arnold of San Francisco, California for ⁱⁿ Nuis-_Amotor Phonograph, filed February 15, 1890, Serial No. 340,627, attorneys Boone & Acker, San Francisco, California, assoc. A.L. Morsell of Washington, D.C.

8. L.Glass and W.S. Arnold, of San Francisco, California, for Coin Actuated Attachments for Phonographs, filed December 18, 1890 Serial No. 334, 196 Patent 428, 750 May 27 1890 attorneys of record Dewey & Co., of San Francisco, California. assoc. A. H. Evans & Co., of Washington, D.C.

The issue remains the same as before and covers substantially claims 1 to 7, inclusive, and 14 of Axelson, Tewksbury, and Ott's application; claims 1,2, 7 to 10, 13,14, 23,24,²⁶ and 41 of Keller's later application; claims 5, 10, 12, 14, 19, 26,27,29,32,37,42,46 48 to 52, 54 to 57 and 60 of Keller's earlier application; claim 2 of Douglass' patent; claims 1,3,4,and 5 of Madgen's application; claims 1 to 12, inclusive, of Gilliland & Toppan's application; claim 1 of Glass & Arnold's application; and claim 23 of Glass & Arnold's patent.

L. W. Maxson.
Examiner.

15,045-

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Axelson, Powelburg & Ott
vs. Keller vs. Douglass
vs.

Madison vs. Gilliland

vs. Pappan vs.

Glass & Arnott

STATEMENT OF

Axelson, Powelburg & Ott

Filed Dec. 10, 1891,

Approved " 28, 1891.

C. F. C.

In the United States Patent Office.

Interference,

C. Axelson,		L. F. Douglass.
G. E. Jewksbury,	vs.	E. J. Gilliland.
S. S. Ott.		F. W. Toppin.
		L. Glass & S.
		W. S. Arnold.
		A. K. Keller.
		W. L. Madgen.

No. 15,095 { Coin-Operated Mechanism
for Phonographs.

The Issue:

The Combination with a phonograph,
of coin-controlled mechanism for throwing
said phonograph into operation, and
automatically operating means for raising
and lowering the phonograph-arm.

PRELIMINARY STATEMENT of Charles Axelson, George E. Tewksbury and Simon S. Ott.

In the above entitled cause personally appeared before me, Charles Axelson, George E. Tewksbury and Simon S. Ott, who being duly sworn, state:

F i r s t: That they conceived the invention in controversy on or about May 15th, 1890.

S e c o n d: That they made no complete drawings of the invention at that time, but that subsequently sketches were made on board, paper, and other convenient material for working use.

T h i r d: That they explained the invention to others in the month of September, 1890.

F o u r t h: That they made the first model of the invention on or about September 20th, 1890. That they subsequently made other models and these were exhibited publicly at various times and in various places.

F i f t h: That they made a complete operating machine on or about October 15th, 1890.

S i x t h: That they have made one hundred and eighty-three machines which are in successful operation, and have been so operated for months past.

..... Charles E. Axelson
..... George E. Tewksbury
..... Simon S. Ott
.....

Sworn to and subscribed before me, this 1st day of

December..., 1891.

..... A. B. Dale
Notary Public.

My Commission expires Sept. 18th 1894.

Intf. No. 15,095 Paper No. 39

Douglas v. Glass and
Arnold v. Gilliland
& Toppam et al.

Judgment against
Axelson, Tewksbury
& Ott.

Dec. 28-'91.

Recorded Vol. 38 p. 49

Room No. 44.

2-069 c.

All communications should be addressed to
"The Commissioner of Patents,
Washington, D. C."

DEPARTMENT OF THE INTERIOR,

United States Patent Office,

Washington, D. C., Dec 28, 1891

IN RE INTERFERENCE

Axelson, Tewksbury & Ott v.
Keller v. Douglass v. Madgen
Guthland & Tappan v.
Glass & Arnold.

Interference No. 15,095.

Before the Examiner of Interferences.

Subject-matter: Coin Operated Phonograph.

The preliminary statement filed by Axelson, Tewksbury
& Ott, a
junior party, failing to overcome the prima facie case made against them
by the respective dates of filing applications, judgment on the record of priority
of invention is accordingly hereby rendered that Axelson, Tewksbury & Ott
were not the first to invent the matter in issue.
This judgment is rendered in accordance with the provisions of Rule 114.
Limit of appeal will expire Jan'y 8, 1892.

C.F.C.

Walter Johnson

Examiner of Interferences.

G. L. M.

(2-067.)

DEPARTMENT OF THE INTERIOR,

United States Patent Office,

Washington, D. C., Dec. 28th, 1891.

IN RE INTERFERENCE

Douglass v. Glass & Arnold v. Gilliland
& Toppan

No. 15,095.

Madgen v. Keller.

Before the Examiner of Interferences.

Coin Operated Phonograph.

Gilliland & Toppan, C/o Vernon M. Dorsey, #918 F.St., City.

The statement of Gilliland & Toppan is defective in that it does not distinguish between a model and reduction to practice. Rule 110 requires that the party state "The date upon which a model of the invention was made", and "The date of the reduction to practice of the invention." If the device spoken of as "a full-sized working model or operating machine" was a model, it was not a reduction to practice; if it was a reduction to practice, it was not a model. One allegation cannot answer for both requirements of the Rule above quoted. As the device spoken of is considered to be a model, applicants will be restricted in the further proceedings in this case to their application date in the matter of reduction to practice of the invention in issue, unless they shall on or before

Jan. 20, 1892, file an amended statement correcting the hereinabove noted defects.

Walter Johnson
Examiner of Interferences.


Pat. No. 15,095 Paper No. 42

*Douglas v. Glass and
Arnold v. Gilliland
& Toppean et al.*

*Letter to Gilliland
and Toppean.
Dec. 28 '91.*

1021 No. 15095

44

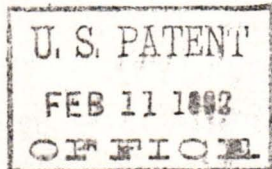

Keller vs
Douglass
vs Madgen vs
Gilliland and
Toppaw et al.

Motion by Keller
for dissolution,

The within motion is hereby
transmitted to the
Spencer for his determination
under Rule 122

Feb 12/92

Walter J. Johnson
S. C. J. Johnson



IN THE UNITED STATES PATENT OFFICE.

In re Interference	:
	:
Keller	:
v.	:
Douglas	:
v.	:
Madgen	:
v.	:
Gilliland & Zoppan	:
v.	:
Glass & Arnold.	:

	Subject Matter
	Numismotor Phonograph.
	No. 15095.

F. W. Ritter, Jr, Atty, for Douglas.

Richards & Co, Attys, for Madgen.

A. H. Evans & Co,)
A. L. Morsell,) Associate Attorneys for Glass and Arnold.

Gentlemen:

You will please take notice that on Friday, February 12th 1892, at the hour of 11 A. M. I will move the Honorable Commissioner of Patents to dissolve the interference between the applications of the said Keller and the patent No. 428,750, granted to the said Glass & Arnold and patent No. 431,883, granted to Leon F. Douglas, on the ground that no interference in fact exists between the said applications and the said patents.

And you will also please take notice that at the same date and hour I will move the Honorable Commissioner of Patents to dissolve the interference between the applications of the said Keller and the application of the said Glass & Arnold on the ground that the said Glass and Arnold have no right to make a claim in the said application to the subject matter of this interference.

You are herewith served with a copy of the said motions.

Respectfully,

Timon M. Dorsey
Asso. Atty, for Keller,

Also Asso. Atty, for Gilliland
and Loppin.

Washington, D. C.,

February 10, 1892.

Service of the above notice and annexed motions acknowledged this // day of February, 1892.

J. M. Rawls
Atty, for Douglas.

Richards Leo
Atty, for Madgen.

A. H. Evans & Co
Atty, for Glass & Arnold,
In the said patent No. 428,750.

Arthur L. Morecell
Atty, for Glass & Arnold,
In the said application.

IN THE UNITED STATES PATENT OFFICE.

In re Interference

Keller
v.
Douglas
v.
Madgen
v.
Gilliland & Toppan
v.
Glass & Arnold.

Subject Matter

Numismotor Phonograph.

No. 15095.

And now comes Albert K. Keller by Vernon M. Dorsey his Associate Attorney and moves that an order be entered dissolving the interference between the applications of the said Albert K. Keller and the patent No. 428750, granted to Glass and Arnold, and the patent No. 431883, granted to Leon F. Douglas, on the ground that no interference in fact exists between the said applications and patents.

Vernon M. Dorsey
Asso, Atty, for Keller.

IN THE UNITED STATES PATENT OFFICE.

In re Interference

Keller
v.
Douglas
v.
Madgen
v.
Gilliland & Toppan
v.
Glass & Arnold.

Subject Matter

Numismotor Phonograph.

No. 15095.

And now comes Albert K. Keller by Vernon M. Dorsey, his Associate Attorney and moves that an order be entered dissolving the interference between the application of said Albert K. Keller and the application of Glass and Arnold, on the ground that the said Glass and Arnold have no right to make a claim in the said application to the subject matter of this interference.

Vernon M. Dorsey
Asso. Atty, for Keller.

IN THE UNITED STATES PATENT OFFICE.

in the Numismotor Phonograph Interferences.
Nos. 15,095, 15,096, 15,444.

Keller

vs.

Douglas

vs.

Glass & Arnold, et al.

vs.

Others.

BRIEF NOTES ON BEHALF OF KELLER ON THE MOTION ^{TO} DISSOLVE.

This motion is made under Rule 75, as interpreted in Reed vs. Landman, 55 O. G. 1275 (May 26th 1891) and Zitinger vs. Reynolds vs. McIntire, 57 O. G. 1279 (Nov. 7, 1891).

These interferences were declared in accordance with the practice established by ex parte Upton C. D. 1884, P. 26, which was specifically limited, if not overruled by the above named decision so that it does not in any manner modify the application of Rule 75 to the point presented in this case.

Applying this ruling to the present case, and limiting the discussion to those claims of the Douglas and Glass & Arnold patents which have been declared to be interference with the application of Keller and Gilliland and Toppan involved in the interferences it will be clear that no interference in fact exists.

First, as to the Douglas patent of which claims 1 and 2 are declared to be in interference.

In none of the above named applications is a circuit breaker arranged in a coin chute, and adapted to hold a coin or token with means for actuating the ~~main~~ circuit breaker from the phonograph carriage to release the coin, (claim 1) nor is there shown in any case two circuit breakers arranged in a coin chute, etc (Claim 2)

Second, Glass & Arnold patent 428,750. Claim 20 and 23

(2)

are said to be interference.

Both specify sliding cutoff blocks controlling flexible tubes, and a swinging bar operating the cut off blocks and contacts in the motor circuit operated by said bar. No single one of these elements is shown in any one of the above named applications, nor do they show any equivalents of the elements specified in the last five lines of claim 23.

Third, Glass & Arnold patent 428,751 of which claims 11, 12 and 13, are declared to be in interference.

Each of these claims specifies a swinging strip operated by the deposited coin and a latch and catch forming electrodes of the motor circuit and operated by the swinging strip.

Neither of these elements are shown in any one of the applications above mentioned.

In addition claim 13 specifies a swinging plate adapted to close and open a hearing tube and driven coin rollers ~~with~~ none of which are shown in the above named application.

It is respectfully requested that the motions be granted.

Respectfully,

Thomas Ewing, Jr.
Counsel W. H. Dorsey

Attys for Keller,
Gilliland & ~~Bell~~ Loppau.

Ind. No. 15095 Paper No. 47.

Keller vs Douglass
vs Madgen vs
Gilliland and
Toppa et al.

Decision of Primary
Examiner on motion
to dissolve.

Mar 10 "1892

Recorded Vol 40-p. 13.

U.S. Patent Office.

Div. XIV.

Mar. 10, 1892.

In Re Interference:-

Keller v. Douglass v. Madgen	(
v. Gilliland and Toppan v.	(No. 15,095.
Glass and Arnold.	(Before the Primary Examiner,
Coin Operated Phonograph.	(on Motion for Dissolution.

V.M. Dorsey, City, for Keller, and Gilliland & Toppan.

F.W. Ritter, Jr. City for Douglass.

Richards & Co. for Madgen.

A.H. Evans & Co. City,	(
	(for Glass & Arnold.
A.L. Morsell, City.	(

Applicant Keller files two motions, first, a motion for a dissolution of this interference with respect to Glass & Arnold's patent 428,750, May 27, 1889, and Douglass' patent 431,883, July 8, 1890, "on the ground that no interference in fact exists between said applications (Keller's) and patents".

In the case of Reed v. Landman 55 O.G. 1275, the Commissioner says that "Landman, the patentee, makes no generic claim, but has limited himself to specific claims based upon his special structure which claims could not be made by his opponent, Reed", and that said interference was therefore dissolved.

Applying this rule to Glass & Arnold's patent, claim 23 of which is involved in this interference, it is apparent that said claim embraces several elements not shown in any of the cases of their opponents, for example, the sliding blocks D and cooperating tripping mechanism for controlling the hearing tubes are peculiar to Glass & Arnold's patent.

On consideration of Douglass' patent, claim 2 of which is involved in this interference, it will be noticed that said claim embraces two circuits and "two circuit breakers arranged in a coin chute" which construction cannot be found in the case of any of the opposing parties.

For the reasons above given, this interference is therefore dissolved with respect to Glass & Arnold's and Douglass' patents on the grounds of the motion.

Limit of appeal to the Commissioner will expire Mar. 28, 1892.

Keller's second motion is for the dissolution of this interference with respect to Glass & Arnold's application, Ser. No. 340627 filed Feb. 15, 1890, "on the ground that said Glass & Arnold have no right to make a claim in the said application to the subject-matter of this interference."

Glass & Arnold's application was filed before their patent involved in this interference was granted. Said application and patent have a proper divisional line between them, their subjects mat-

ter relating to different species. It is further to be noted that said application and patent were properly placed in interference under the practice prior to the Reed v. Landman decision. Under that practice it was always permissible for a successful applicant in an interference, whose case embraced only a specific claim covered by the generic issue to amend his case, after favorable judgment of priority, by inserting the generic claim in his case.

In view of the concurrent pendency of Glass & Arnold's applications it is thought that Keller's point of abandonment by Glass & Arnold of the generic claim is not good.

This motion on the grounds stated is therefore denied.

Limit of appeal to the Examiners-in-Chief will expire Mar. 28, 1892.

Supplemental Decision.

In applying the Reed v. Landman decision to the Glass and Arnold, and Douglass' patents, and upon consideration of the applications Madgen, Gilliland & Toppan, and Glass & Arnold it becomes apparent that said decision is also applicable to said applications. Each of the claims of said applications which are involved in this interference embrace constructions peculiar and special to the particular case.

The specific limitations to the several claims of these applications involved in this interference are so evident and obvious

that it is deemed unnecessary to go into detail as to said limitations.

This interference is therefore dissolved with respect to said applications in view of the Reed v. Landman decision (supra).

Limit of appeal to the Commissioner will expire Mar. 28, 1892.

L. W. Maxson.
Examiner.

15095. 48.

Keller v Douglass
v Madgen v
Gilliland and
Toppau et al.

Notice of decision
on motion to dissolve.

Mar 10/92

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE,

In Re Interference:-

WASHINGTON, D. C., Mar. 10, 1892.

Keller v. Douglass v. Madgen

Subject: No. 15,095.

v. Gilliland and Toppan

Before the Primary Examiner

v. Glass and Arnold.

Motions for Dissolution.

Filed

No.

Please find below a communication from the EXAMINER in charge of the application above noted.

W. E. Simonds

Commissioner of Patents.

Room No. 209-

All communications should be addressed to
"The Commissioner of Patents,
Washington, D. C."

A.K. Keller

(

(Care V.M. Dorsey, 918 F St. City.

Gilliland & Toppan. (

L.F. Douglass, Care F.W. Ritter, Jr. City.

W.L. Madgen, Care Richards & Co. City.

Glass & Arnold (Care, A.H. Evans & Co. City.

(

" " "

(

" A.L. Morsell, City.

This interference has been this day dissolved with respect to Glass & Arnold's and Douglass' patents upon motion of Keller, and with respect to Madgen's, Gilliland & Toppan's, and Glass & Arnold's applications upon jurisdiction assumed by the Primary Examiner.

The limit of appeal to the Commissioner will expire Mar. 28, 1892.

Keller's motion for dissolution with respect to Glass & Ar-

6-617

(5556-100,000.)

nold's application denying their right to make the claim has been

denied. The limit of appeal to the Board will expire on Mar. 28, 1892

L. W. Maxson

Any communication respecting this application should give the serial number, date of filing, and title of invention.

15095. Ser No. 49

Keller vs Douglass vs
Madgen vs Gilliland
and Toppam vs Glass and
Arnold,
Keller's Exhibit E.

March 15th 1892
Dane Graham
Notary Public

Indorsement 1595
Keller's Exhibit E.

U. S. PATENT
MAR 16 1892
OFFICE

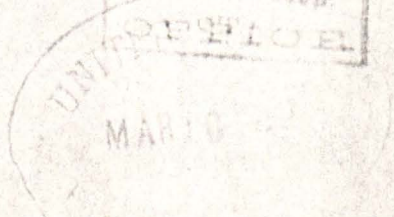
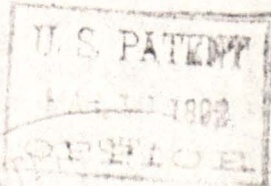
ED STATES
MAR 16 1892
ENT 2

15095.

NO. 50,

Keller vs Douglass vs
Madgen vs Gilliland
and Toppaw vs Glass and
Arnold,

Letter of transmittal.



Thomas Ewing, Jr.
Counselor at Law.

Domestic and Foreign
Patent Business
a specialty

155 Broadway,
New York, U.S.A.

March 15th 1890

To the Commissioner of Patents

Sir.

I herewith transmit,
through Mr. Paul Gorham, the notary
before whom the testimony for Keller in
15095 & other interferences, has been
taken, a formal abandonment
of the application of Gillet and Keller
No 340687 filed Feb 17th 1890,
which case is involved in the
above mentioned interferences.
This abandonment has been offered
in evidence in these interferences &
is therefore transmitted to the office through
Mr. Gorham.

Respectfully Thomas Ewing, Jr.
Attorney for Gillet and Keller

Intt. No. 15095 Paper No. 53

Keller & Douglass
& Madgen &
Gilliland and
Toppa et al.

Testimony & Exhibits
on behalf of
Keller



15095

15095.

I hereby certify that
the within depositions
of Albert K. Keller, Felix
Gottschalk, Ezra T. Gilliland,
Charles A. Cheever, Converse
D. Marsh, Samuel W. Balch,
Thomas Ewing, Jr., relating
to the matter of interference
between Albert K. Keller,
Leon F. Douglass, W. L. Madgen,
Gilliland and Toppa, and
Glass and Arnold were taken
on the 14th, 15th, 21st and 22nd
days of March^{and} sealed up
and addressed by me this
24th day of March 1892.

Paul Gorham
Notary Public
155 Broadway
New York City
New York.

Before the Commissioner of Patents, in the matter of the interference between the application of Albert K. Keller for attachments for phonographs: the patent No. 431,883, granted July 8th, 1890, to ^PNeon F. Douglas: the application of W. L. Madgen: the application of Gilliland and Toppan: the patent No. 428,750 granted May 27th, 1890, to Glass and Arnold: and the application of Glass and Arnold: (No. 15,095).

Depositions of witnesses examined on behalf of Albert K. Keller, pursuant to the annexed notice, at the office of Thomas Ewing, Jr., No. 155 Broadway, New York City, on Monday, March 14th., 1892.

Present: Thomas Ewing, Jr., and Vernon M. Dorsey, for
Albert K. Keller.

CHARLES A. CHEEVER, being duly sworn doth depose and say, in answer to interrogatories proposed to him by Thomas Ewing, Jr., Esq., Counsel for Albert K. Keller, as follows, to wit:

1 Q Will you state your name, residence and occupation?

A. Charles A. Cheever; 17 West 27th., Street, New York City, General Electrical Engineer.

2 Q How long have you been in that occupation?

A Fifteen years.

3 Q. Do you know Albert K. Keller, one of the parties to this interference?

A. Yes.

4 Q. Are you familiar with the subject matter involved in (these interferences,) ~~(the issue in this case being as follows:~~

~~"The combination with a phonograph, of mechanism normally held by locked, adapted to be released by a coin, and means operated by said mechanism to raise and lower the phonograph arm."~~

A. Yes.

5 Q. When did you become acquainted with the subject matter?

A. The latter part of the year 1889.

6 Q. Will you state under what circumstances it came to your attention?

A. At that time I was President of the Metropolitan Phonography Company, which company had exclusive right to operate the Phonograph in the City of New York and vicinity. The first

time

my attention was called to this branch of the phonograph business was through the conversations or correspondence with Mr. Converse D. Marsh. I should say that the first definite conversation held with him was some where in November 1889, though I think that we had some indefinite conversation in this line at an earlier date.

7 Q. Then after November 1889, did you have any further discussions or considerations of this subject?

A. Subsequent to November I had the subject under consideration and was waiting to hear further particulars from Mr. Marsh, which he had promised to give me at a later date. I find in looking over my letter-book and files, copies of telegrams from Mr. Marsh and original telegrams received from him.

8 Q. Of what dates?

A. Telegrams from Marsh, dated Detroit, Michigan, January 7th, 1890, to Charles A. Cheever, President Metropolitan Phonograph Company 257 Fifth Avenue, "Have mailed you very favorable proposition. Detroit monied men interested, Converse D. Marsh."

9 Q. That relates to this matter?

A. Yes. I have been unable to find the proposition referred to by Mr. Marsh, but remember that I received the same shortly after the date of the telegram. I find a copy of a telegram in my letter-book which is not dated, but

appears between copies of other correspondence, the one previous being dated January 15th, 1890, and the one following being dated January 17th, 1890; so that this telegram was undoubtedly sent between those dates, the copy is as follows:

"Converse D. Marsh, Russell House, Detroit, Michigan. Are your devices and appliances practical and patentable. Write me full particulars giving description today. Confidential. Prompt action necessary.

Charles A. Cheever."

I next find in order of dates, telegram from Marsh as follows:

"Detroit, Michigan, January 16th, 1890. Charles A. Cheever, President Metropolitan Phonograph Company, 257 Fifth Avenue, New York City. In answer to your telegram, have written fully. Converse D. Marsh."

I received Mr. Marsh's letter, but am unable to find it at present. I find a telegram from Marsh as follows:

"Detroit, Michigan, January 17th, 1890. Charles A. Cheever, President Metropolitan Phonograph Company, 257 Fifth Avenue. Delayed here. ^{but} Will meet you at your office three o'clock Tuesday. Automatic machine shipped Monday. Converse D. Marsh."

January 18th, copy of my letter-book to Marsh.

"New York, January 18th, 1890.

~~Michigan~~
Converse D. Marsh, Care ~~Metropolitan~~ Phonograph Company,

Detroit, Michigan. If possible have Automatic machine here Monday, instead of Tuesday. Charles A. Cheever."

That is all the correspondence I have been able to find. My recollection is that Mr. Marsh in his telegram of January 17th, ~~sax~~ stated that the machine would be shipped on Monday, intended to mean the following Monday after January 17th. Hence my telegram to get the machine here on Monday instead of shipping it here on Monday. The machine however, was not received in New York as far as I know until a few days later than the date promised. I think however, during the same week commencing with the Monday referred to. I first saw the machine at the residence of Mr, Ezra T. Gilliland, though I was informed that Mr. Marsh had had it in New York before the day I saw it, but had held it back until Mr. Gilliland arrived. In fact, Mr. Marsh informed me that he had the machine here but would not show it until Mr. Gilliland was present.

Mr. Ewing, makes the following statement:

The 17th, day of January 1890, came on Friday.

10 Q Your impression is that it was here within the week-- have you any impression as to the day?

A. I do not know when it arrived, but I know it was the end of that week when I saw it in Mr. Gilliland's house. My impression is that it was on Friday January 24th.

11 Q. You will please state whether you examined the machine at that time, if so to what extent?

A. I examined the machine sufficiently to satisfy myself that it was a practical machine and was in a state of perfection sufficient to be marketable. I did not go into all the details of the mechanism of the machine. I recollect making the statement to Mr. Gilliland, in answer to his question as to whether I thought the machine was in such shape that it could be introduced at once without further change or improvement, -- I told him that it was my conviction that it was so.

12 Q. Could you identify the machine that you there saw?

A. Not absolutely the machine.

13 Q. Could you tell whether any machine ^{exhibited} to you acts on the same principal?

A. Yes.

14 Q. I now hand you Keller's Exhibit A. Will you state how far that Exhibit corresponds with the machine that you then saw, in principal of operation?

A. As far as I can judge this is the same machine that I then saw. If not, it is so near like it that there is no substantial difference.

15 Q. Did you ever see the machine tried?

A. I have already testified I first saw the machine, operated it, had it explained to me, &c., at Mr. Gilliland's house in New York, on or about Friday January 24th; at any rate within a few days of that time.

16 Q. Do you know what became of that machine subsequently?

A. That machine, or a duplicate of the one I saw at Mr. Gilliland's was sent to my rooms, No. 17 West 27th, Street,

within a short time after I saw it at Mr. Gilliland's house and remained there for some considerable time, and was there shown and exhibited to various parties interested or who sought to become interested in connection with the business of introducing it. Among others were Mr. Jesse H. Lippincott, President of the North American Phonograph Company; A. O. Tat~~e~~, Private Secretary for Mr. Edison; Mr. John P. Haynes, President of the New York Phonograph Company; R. T. Haynes, Secretary of the same Company: And many others interested with various local Phonograph Companies.

18 Q. Did they try the machine?

A. All of them did, by dropping ~~the~~ a nickle in the slot and operating the machine and listening through the tubes. The same machine, a short time after it first came to my place, was brought over to ~~my~~ ^{the} office of the Metropolitan Phonograph Company, 257 Fifth Avenue, on several occasions, the first one that I recall being to exhibit the machine to the Board of Trustees of the Metropolitan Phonograph Company, and it was there exhibited to the various Trustees present at the meeting. Among others the Hon. Nosh Davis, Ex-Judge of the Supreme Court of New York: James B. Metcalf, Banker: Joseph S. Arbaugh, Lawyer; and others, all of whom were Trustees of the Metropolitan Phonograph Company.

19 Q. Did you examine the machines which you saw at Mr. Gilliland's house and at your place of business, sufficiently to state whether the following combinations were contained therein; and were they contained therein? "The combination with a phonograph of a device for automatically raising and lowering the phonograph arm, and coin controlled mechanism adapted to operate on said device to raise and lower it and thereby raise and lower the phonograph arm"?

A. Yes.

20 Q. Also: "The combination with a phonograph, of coin controlled mechanism for throwing said phonograph into operation, and automatically-operating means for raising and lowering the phonograph arm."

A. Yes.

21 Q. Also: "1. The combination with a phonograph, of a coin controlled mechanism for throwing said phonograph ~~into~~ into operation, means operated by the phonograph to stop said phonograph, and means ~~for~~ to return the phonograph arm."

A. Yes.

Attorney for Keller, here states, that the above issue was count 2, of interference 15,096, as originally declared, but is now count 1, thereof.

22 Q. Also "2. The combination with a phonograph having its motor circuit normally opened, of coin controlled mechanism for closing the circuit to operate the phonograph, means operated by the phonograph to open the circuit and stop the phonograph, and means to return the phonograph arm"?

A. Yes.

23 Q. Also: "3 The combination with a phonograph, of raising means for the phonograph arm, shifting means for said arm, and lowering means for said arm, said means all being coin controlled and automatic in operation"?

A. Yes.

Attorney for Keller here states that the two issues last above given were counts 2 and 3 of interferences 15, 097, and are now counts 2 and 3 of interferences 15,096.

24 Q. Also: "4. The combination with a phonograph adapted to be operated by a motor, of a coin controlled mechanism for starting and stopping the motor, and a device for automatically raising and lowering the phonograph arm.

The attorney for Keller here states that the above was the issue in 15,099 and is now count for the issue in 15,096.

25 Q. Also: 1, "The combination with a phonograph, of a coin controlled mechanism for throwing said phonograph into operation, and means ~~for~~ operated by the phonograph to

stop said phonograph."

A. Yes.

Attorney for Keller here states that the above issue was count 1, of interference 15,096 as originally declared, but is now count 1, of interference 15,444.

26 Q.

Also: "2. The combination, with a phonograph having its motor circuit normally opened, of coin controlled mechanism for closing said circuit, and means operated by the phonograph to open said circuit."

A. Yes.

Attorney for Keller here states: that the above issue was count 1, of original interference 15,097, as it was declared, but is now count 2 of interference 15,444.

Chas. A. Greener

ALBERT K. KELLER, being duly sworn doth depose and say, in answer to interrogatories proposed to him by Thomas Ewing, Jr., Esq., Counsel for Albert K. Keller, as follows, to-wit:

1 Q Will you state your name, age, residence and occupation?

A Albert K. Keller, 39, New York City, Machinist.

2 Q Are you the applicant in the following applications for Letters Patent, No. 379,824; No. 384,477, and in joint application with James T. Gilliland in No. 340,687

A Yes.

3 Q I herewith hand you the original declaration of interference in each of the following interferences: 14,846; 15,094; 15,095; 15,096; 15,098, and 15,444. These are as follows:--

(14,846) 1. "In a coin operated phonograph, the combination with a trigger adapted to be tripped by a coin, of a lever, adapted to be released by said trigger, and two electrodes, one of which is connected to said lever, and by which it is adapted to be moved into contact with the other electrode."

~~15,094~~ " 2. In a coin operated phonograph, the combination, with a coin operated trigger, and with an arm electrically connected and adapted to be released by said trigger, and with an electrode for engagement with said arm, of a carrying arm for the diaphragm, and means whereby the carrying arm will break the electric circuit at the end of the

12
8

movement".

Attorney for Keller here states that the above issue was the original issue in interference 14,847 and has now been made count 2, of interference 14,846.

"3. The combination with a phonograph adapted to be operated by a motor, of a coin-actuated mechanism for the stopping and starting of the motor, a shifting-lever, and a automatic lifting device for the needle carriage of said phonograph".

Attorney for Keller here states, that the above issue was the issue of original interference 14,848 which has now been made count 3, of interference 14,846.

(15,094) "The combination with a phonograph or a of a device for automatically raising and lowering the phonograph arm, and coin controlled mechanism adapted to operate on said device to raise and lower it and thereby raise and lower the phonograph arm".

(15,095) "The combination with a phonograph, of coin controlled mechanism for throwing said phonograph into operation, and automatically-operating means for raising and lowering the phonograph arm".

(15,096)"1. The combination with a phonograph, of a coin controlled mechanism for throwing said phonograph into operation, means operated by the

phonograph to stop said phonograph, and means to return the phonograph arm."

(15,096) "2. The combination with a phonograph having its motor circuit normally opened, of coin controlled mechanism for closing the circuit to operate the phonograph, means operated by the phonograph to open the circuit and stop the phonograph, and means to return the phonograph arm".

(15,096) "3. The combination with a phonograph, of raising means for the phonograph arm, shifting means for said arm, and lowering means for said arm, said means all being coin controlled and automatic in operation."

Attorney for Keller here states that the above issue Count 1, of interference 15,096 was count 2 thereof, as originally declared.

Attorney for Keller also states, that the two last issues above given were counts 2 and 3 of interference 15,097, and are now counts 2 and 3, of interference 15,096.

(15,096) "4. The combination, with a phonograph adapted to be operated by a motor, of a coin controlled mechanism for starting and stopping the motor, and a device for automatically raising and lowering the phonograph arm."

Attorney for Keller here states that the above issue was the issue in interference 15,099, and is now count 4, of interference 15,096.

(15,098). "1. The combination, with a phonograph having its motor circuit normally open, of a coin controlled mechanism for closing the circuit to operate said phonograph, and adjustable means operated by the phonograph to open the motor circuit and stop the phonograph at any desired point".

(15,098) "2. The combination, with a phonograph having its motor circuit normally open, of a coin controlled mechanism for closing said motor circuit adjustable means operated by the phonograph to open said motor circuit and stop the phonograph at any desired point, and means also operated by the phonograph to raise the phonograph arm".

(15,444) "1. The combination with a phonograph, of a coin controlled mechanism for throwing said phonograph into operation, and means operated by the phonograph to stop said phonograph, and means to return the phonograph arm."

Attorney for Keller here states, that the above issue was count 1, of interference 15,096 as originally declared, but is now count 1 of interference 15,444.

(15,444) "2. The combination, with a

phonograph, having its motor circuit normally opened, of coin controlled mechanism for closing said circuit, and means operated by the phonograph to open said circuit."

Attorney for Keller here states, that the above issue was count 1 of original interference 15,087 as it was declared, but is now count 2 of interference 15,444.

When did you conceive the issue in all of these interferences, except the first count of 15,846?

A In July 1887.

4 Q. Did you ever explain your invention to anybody.

A Yes.

5 Q About what time?

A About the same time.

6 Q To whom?

A Ezra T. Gilliland.

7 Q Did you make any drawings?

A I made sketches.

8 Q Did you ever go any further in the matter of developing your invention?

A Not until I made a machine in Bloomfield.

9 Q About what time was that?

A In October.

10 Q Do you recognize the machine which I now show you and which has been marked in interference 15,092 as Keller's Exhibit B, and which is now offered in evidence marked

Exhibit B, in interferences 15,095 and other interferences.

A Yes.

11 Q How do you recognize it--as what?

A As the machine I made in October 1887.

12 Q The identical machine?

A Yes.

13 Q What can you say as to the size of the parts?

A They are all full size.

14 Q What can you say as to the completeness of the machine?

A It is all complete with the exception of the ^{shute}~~slide~~ for dropping in the nickel, and the weight.

15 Q How nearly complete did you make it in October 1887?

A It is now just as I left it then, with the exception that the little spring holding the armature was lost, and I replaced it, and the shute and the weight which I lost..

16 Q You have stated that the machine was altogether. How did you have the weight attached?

A It was tied on to the back rod sleeve and carried over out of the way of the motor, over a little sheave which was set on the bench.

17 Q How large was the weight?

A It was a little bag of shot--about six ounces.

18 Q How did you attach the coin shute?

A That was clamped on to the little wooden block that holds the automatic device, which was intended to represent a part of the cabinet.

19 Q How did the machine operate?

A Normally locked with the reproducers raised off the phonograph record, at the end of the record. It is held raised by setting on a little slide, by what we call the phonograph extension arm, raised on a front slide. It is held locked by a *catch* on the end of the armature which engages the phonograph extension arm just over the slide, and that by being held there opens the motor circuit. It is released by a coin that goes between two springs on the right hand side of the machine looking from the front. When the nickel goes down through the chute and to these two springs, it closes the contact between these springs through the electro magnet, causing the armature to be depressed and releasing the phonograph extension arm. A weight fastened on the back rod sleeve then pulls the reproducer and its attachments to the point where the record begins. At this point the phonograph extension arm drops from the slide, lowering the reproducer on to the cylinder, and the nut on to the screw. When the extension arm is drawn forward from under the catch it automatically closes the motor circuit. The motor then drives the screw and when the nut is lowered on to the screw carries the reproducer and its attachment back to its original position, meantime reproducing the record. When the extension approaches its original position, it is lifted by a spring under the front slide. It is thus brought on to an incline leading up to the front slide

and catch. The weight pulls it up this incline until it is stopped by the catch. As the phonograph extension arm is thus lifted it breaks the motor circuit, thus stopping the phonograph.

20 Q Have you any evidence that the machine was operated ^{ive}?

A I operated it by dropping in nickels and slugs.

21 Q How long did you keep it on hand trying it that way?

A I had it around perhaps a month.

22 Q Did you show it to any body?

A I showed it to Mr. Gilliland at that time.

23 Q What was your impression as to how satisfactory it was?

A. AI thought it was satisfactory and complete.

24 Q Did you then do anything further in the matter?

A No; I was then told that the phonographs were not permitted to be used for a nickel in the slot purpose.

25 Q By whom?

A Mr. E. T. Gilliland, who was then general agent for the Edison Phonograph ~~Works~~ *Company.*

26 Q You did not go on at that time because of the fact that you could not get the phonographs?

A I stopped because I did not see that there was anything in it so long as I could not get the phonographs.

27 Q Did you ever do anything after that in the matter?

A Yes. I made a machine after that.

28 Q Embodying all the above named issues?

A Embodying all the above named issues.

Mr. Ewing introduces a machine marked Keller's Exhibit A, which was before introduced in interference 15,092, with the same mark, with the request that the machine may be accepted in evidence in this interference and marked Exhibit A therein.

29 Q Do you recognize that machine?

A Yes.

30 Q What machine is it?

A That is the machine I made in Adrian, Michigan.

31 Q Can you recollect exactly the date when you made it?

A No, I can not.

32 Q Locate it with respect to the execution of the joint application of Gilliland and Keller?

A It was made before that.

33 Q Was it made prior to Christmas of the year before?

A Yes.

34 Q Was that the only machine that you made at that time?

A No, I made several.

35 Q What can you say as to the time when some of these machines were made?

A They were made four or five months before Christmas.

36 Q Did they differ from this machine?

A No, they did not differ from it in the working principal.

They were a little different in shape or on the outside.

37 Q Were any of these machine, including the one in evidence, tried, and if so when and where?

A They were tried there in Adrian in the factory, and afterwards in New York City, at Mr. E. T. Gilliland's residence, Mr. Cheever's residence, and the rooms of the New York Phonograph Company.

38 Q How did they work?

A By dropping a nickel in the slot.

39 Q How well did they work?

A They worked to my entire satisfaction.

40 Q What can you say as to the size of this machine and the other machines that you have testified you made in Adrian, Michigan?

A They were all the same size, and full sized. I never made ~~41-42~~ what is known as a model, all the parts were full-sized.

41 Q Where were you when you conceived all these inventions?

A I was actually working at East Newark; Thomas A. Edison's Laboratory.

42 Q What was then done in the matter?

A I made application for the patent for the machine so made.

43 Q And after it was brought on to New York?

A Yes.

44 Q What was that application?

A It was the Gilliland and Keller joint application.

45 Q Did you subsequently make other applications?

A Yes.

46 Q What can you say as to how closely any one of these appli-

cations resembles the one you made with Mr. Gilliland jointly?

A They were the same, with the exception with what is called the drag on this machine.

47 Q You subsequently to the Gilliland and Keller application made a sole application for a patent on the same machine, with the exception of the drag. How did you come to make first a joint application with Mr. Gilliland and then a sole application upon substantially the same device.

A I believed that we were joint inventors.

48 Q Did you afterwards change your opinion upon this point?

A Yes.

49 Q How did you come to change your opinion upon this point?

A When my attorney notified me that we were in interference. Then I made another application.

50 Q How did you come to make another application at that time?

A I was told that we were not joint inventors.

51 Q Did Mr. Gilliland contribute anything shown in the Gilliland and Keller application?

A Yes.

52 Q If he was not a joint inventor with you, did he contribute specific parts?

A Yes, he contributed the drag, illustrated in figures 13 and 14 U V u' u".

53 Q Did he contribute anything else?

A No.

54 Q Did you make the rest of the invention solely.?

A Yes.

55 Q You were told by your attorneys that you were not joint inventors?

A Yes, and I then made a sole application.

56 Q Did the joint application of Gilliland and Keller disclose your invention as you had it at the time of the execution of the paper therefore?

A Yes.

57 Q You have testified that several machines were made by you five or six months before Christmas 1889. Who, if any body, were those machines shown to?

A They were shown to other workmen in the shop.

58 Q Can you give the name of any persons?

A I was not well enough acquainted with them to know their names, but I think most of the men in the shop saw it.

59 Q Was it their habit to try the machine by dropping in a nickel?

A Yes.

60 Q The machine would respond, would it?

A Yes.

61 Q You have testified that you completed a machine about Christmas 1889. What did that machine show, and about what time was it used?

A It shows everything that this machine shows.

62 Q About what time do you suppose that machine was completed?

A I could not tell exactly.

63 Q Was the machine marked Keller's Exhibit A, used in Michigan, before it was sent to New York?

A Yes.

64 Q What was the character of the use?

A It was used for automatically working the phonograph--used by dropping in a nickel.

65 Q To what extent was it so used?

A It was not put out for commercial use, but simply used and tried, to satisfy ourselves that it was properly made, and would stand up to the test that we expected to put it to.

66 Q Was it used by other persons besides yourself?

A Yes.

67 Q Do you know what date Exhibit A, was sent to New York?

A No.

68 Q Was it sent to New York before or after the date of the execution of the application of Gilliland and Keller?

A Sent before.

69 Q Do you know the date you executed the application papers of Gilliland and Keller?

A I do not remember the exact date.

70 Q When you executed the application papers, were the dates contained therein, both in the specification and jurat, correct?

A I think they were..

71 Q When did you see the machine in operation in New York, before or after the date of execution?

A Before.

72 Q Where did you see it in operation?

A At Mr. Gilliland's residence, at Mr. Cheever's residence, and at the Metropolitan Phonograph Company's office.

73 Q What machine was so used at this place?

A Keller's Exhibit A.

74 Q To what extent was it used at the residence of Mr. Cheevers and the office of the Phonograph Company.

A I could not say exactly; a number of people used it.

75 Q How was the machine started at that time?

A By dropping a nickel in the slot and pulling a lever.

76 Q Was it possible for the persons using the machine to recover the nickel?

A No.

77 Q What became of the money that was placed in the machine?

A After working the machine, the nickels passed into a safe. I had the keys of the safe and took the money.

78 Q While the machine was in Mr. Cheever's rooms, were the offices of the Phonograph Company accessible to the public?

A Yes.

79 Q Was the phonograph so situated as to be accessible to the public in the Phonograph Company's office?

A Yes.

80 Q Do you know whether it was so situated at the Phonograph Company's Office prior to the filing of the joint application?

A Yes.

81 Q Do you know whether there were any instructions placed upon or near the machine to show the manner of using it?

A Yes; the instructions was a sign up, stating how to work the machine.

25
N

82 Q Will you take the photograph I now hand you and state what that represents?

A That is a photograph of this machine.

The Photograph referred to by the witness is here offered in evidence and is marked Keller's Exhibit C, interference No. 15,095.

83 Q What was the condition of Keller's Exhibit A, at the time it was in use in the Phonograph' Company's Rooms, prior to the filing of your application, in relation to this photograph?

A I would say that this photograph was a photograph of the machine as it was shipped from Michigan and as it was erected at Mr. Gilliland's and Mr. Cheever's and the Rooms of the Phonograph Company, at the time of which I have been speaking.

84 Q I now hand you another photograph. What does this photograph represent?

A It is a photograph of the same machine, with the top of the cabinet off.

The photograph last referred to, is now offered in evidence marked Exhibit D, interference 15,095.

85 Q How much money did you take from the machine, while it was in Mr. Cheever's rooms?

A Over five dollars.

Albert H. Keller.

20

EZRA T. GILLILAND, being duly sworn doth depose and say, in answer to interrogatories proposed to him by Thomas Ewing, Jr., Esq., Counsel for Albert K. Keller, as follows, to-wit:--

1 Q Will you state your name, residence and occupation?

A Ezra T. Gilliland, New York City, Inventor.

2 Q Do you know Albert K. Keller, one of the parties to this interference?

A Yes.

3 Q How long have you known Mr. Keller?

A Ten or twelve years.

4 Q What have been your relations to Mr. Keller for the past five years?

A His employer most of the time.

5 Q What has been your connection with the phonograph?

A I was associated with Mr. Edison in experimenting and perfecting the phonograph, and joint inventor with him in some of the details, General Agent of the Edison Phonograph Company.

6 Q Has Mr. Keller ever spoken to you in relation to coin actuated phonographs?

A Yes.

7 Q At what time and under what circumstances?

A In the summer of 1887, when we were engaged in perfecting the phonograph at Edison's Laboratory, in East Newark, I suggested to him that it might be very profitable to put the phonographs out, when they were perfected, on

exhibition, connected with a nickel in the slot device.

I asked him to try his hand at inventing the necessary attachments to manipulate it automatically; that is to stop and start it, and return it to the starting point..

8 Q What action did Mr. Keller take upon this suggestion?

A The first thing was to talk it over with me and suggest how it could be done, and illustrate his suggestion by sketch drawings, our customary plan for doing that sort of work.

9 Q At what time did you first speak to Mr. Keller of the advantage of using the nickel in the slot attachment to the phonograph?

A In June.

10 Q How long after that did he show you the drawings?

A A few weeks later.

11 Q How are you able to fix those dates?

A I am able to fix those dates from the fact that Mr. Edison, Mr. Keller and myself returned from Florida on the first of May, and commenced in work in Edison's Laboratory, which was situated in the *Edison Lamp* Factory in East Newark, and the phonograph was the first line of experimenting we took up, and very soon after the experiments on the phonograph were begun, this thought occurred to us, suggested by the automatic weighing scales that were to be seen almost everywhere. And I our first move was to endeavor to make a business arrangement with the Automatic Weighing Scale Company, by which we could use their nickel in the slot attachment, which was at that time claimed by them to be

broad and controlling.

12 Q Did Mr. Keller take any further proceedings in the matter after the making of sketches?

A After the experiment on the phonograph was carried to that point of perfection where we were ready to manufacture them for commercial purposes, the factory was established in Bloomfield, and Mr. Keller was made the superintendent, and at my personal request and on my personal account, Mr. Keller undertook experiments and made models for many improvements on the phonograph, and among them was experiments on the nickel in the slot attachment for the phonographs.

13 Q I now hand you a machine marked Keller's Exhibit B, interference 15,095. Do you recognize this machine?

A I recognize the machine as of the type that was manufactured at that time at Bloomfield.

14 Q Do you refer in your answer to the phonograph proper?

A Yes.

15 Q Do you recognize the attachment thereto?

A No, I do not, it being one of many devices made, and I took no part in the work, as I did afterwards, and the time being so long I could not positively identify the attachment, but believe it to be one of those made at that time. All of this work was done out of factory hours, at night time.

16 Q When was it that he made these various devices which are referred to?

A Soon after the factory was established and during the month of November 1887.

17 Q Do you know to what extent the machine made by Mr. Keller at that time was capable of use?

A It performed the necessary functions of an automatic nickel in the slot attachment for operating the phonograph, raising and lowering the phonograph arm, returning it to its normal position, opening and closing the motor circuit, and the spectacle frame being normally held locked, and released on the insertion of the coin.

18 Q How do you fix the date of making of this machine?

A By the fact that the phonograph Works were established in Bloomfield about the beginning of October, this work was done soon after the factory was in operation. The factory continued in operation in Bloomfield only a few months and was then removed to the large works now occupied by Edison Phonograph Company in Orange.

19 Q Will you please state what control, if any, you had over the phonographs at the time Mr. Keller showed Keller's Exhibit B, to you?

A I owned and controlled the general agency of the phonograph company, that own and control all of Edison's Phonograph patents in the United States. All phonographs that were to be manufactured were sold through me. I established all sub agencies in the United States, and phonographs that were manufactured and sold passed through my hands and were at my disposal.

20 Q What action if any did you take in relation to the Keller

Exhibit B., when it was shown to you?

A At about this time the matter of exhibiting a phonograph to the public through the medium of the nickel in the slot device was taken into consideration by the parties in interest, and we decided that it would be unwise to introduce the phonograph through the medium of a nickel in the slot device, and I so informed Mr. Keller, and it was therefore considered that it was not worth while spending more time or money in work upon that invention at that time. Subsequently--about a year later-- the phonograph properties passed into other hands, who organized for the manufacture and leasing of phonographs for office use, for business purposes. After they had been engaged in business for about one year, the subject of exhibition of phonographs through the medium of nickel in the slot machines was again revived, and this company ^{gave} ~~given~~ encouragement that machines would be permitted to be used for nickel in the slot purpose. Mr. Keller at once resumed his work upon his machine, to perfect it for manufacture. In the mean time the form of the phonograph had been materially changed, which necessitated alterations in the nickel in the slot attachment. Mr. Keller, under my direction, at once set to work to make these necessary alterations, to adapt it for use with the new form of phonographs, and to do all necessary things to manufacture it for commercial use; such as enclosing it in a cabinet, attaching a safe for the security of the money, making provisions for battery power, and enclosing the whole in a cabinet to prevent

meddling with the apparatus. In the original machine the weight for returning the phonograph to his normal position was raised by the action of the phonograph screw.

21 Q Where did he resume work?

A At the Gilliland Electrical Works, in Adrian, Michigan, of which I was at that time the principal owner.

22 Q What did Mr. Keller accomplish when he resumed work upon the subject matter?

A He made what we considered to be a good commercial form of machine.

23 Q When did you see such a machine?

A In the latter part of November of that year, which was 1889.

24 Q What was the character of the machine shown you as to its completeness?

A What we pronounced a good commercial form of machine.

25 Q Did you see the machine operate at that time?

A Yes and it was thoroughly acceptable.

26 Q Will you please examine Keller's Exhibit A, which has been offered in evidence in this interference, and state whether you have ever seen it before?

A It is the nickel in the slot attachment of what I referred to as a perfected commercial machine. I think I saw it in the latter part of November, certainly in December, or a machine practically the same as that one. I know this to be one of two machines that were exhibited at my house in January of 1890.

27 Q Were those two machines, referred to in your last answer ,
alike?

A Practically the same.

28 Q Can you identify that, as a machine that was used any where
else than in New York City?

A Yes; it was removed to the house of Charles A. Cheever,
27th Street, and afterwards set up and operated in the
offices of the Metropolitan Phonograph Company on Fifth
Avenue, where I saw it and operated it many times.

29 Q Will you please examine photographs which I now hand you
marked Keller's Exhibit C, and Keller's Exhibit D, and
state what the photographs represent?

A They represent the nickel in the slot attachment referred
to, marked Keller's Exhibit A, mounted in the cabinet, at-
tached to a phonograph ready for operation; in one of them
the top of the cabinet being removed to expose the mechan-
ism. The lower part of the cabinet was made to contain
~~30 Q~~ the battery and the supply for the cylinders.

30 Q At what time do these photographs represent Keller's Ex-
hibit A?

A When first completed in the factory at Adrian, and as ex-
hibited at my house and the other places referred to. The
machine was first completed and mounted in a cabinet ready
for use, the latter part of December 1889.

31 Q When was Exhibit A, placed in the rooms of the Phonograph
Exhibition Company.

A It was before the organization of the Automatic Phonograph
Exhibition Company.

32 Q Where was the machine situated in the rooms of the company?

A In a public office at the right of the main entrance, and with a sign placed over them giving directions of how to use them, with a view to the public giving it a proper test.

33 Q Do you know anything as to what was done as to the matter of getting patents for this machine?

A I know all about it.

34 Q Will you state what was done?

A James F. Gilliland and Albert K. Keller, gave me power of attorney to act for them in the matter of engaging a Patent Solicitor, to make applications for patents, and to dispose of their inventions. Acting under that power of attorney, I sold the inventions to the Automatic Phonograph Exhibition Company.

I engaged A. W. Kiddle, who prepared the applications. I then sent on to Adrian for Keller and Gilliland to come to New York and execute them, and do such other things as was necessary to complete the applications and complete the assignment of the patent.

35 Q. Are you familiar with the circumstances under which Albert K. Keller and James F. Gilliland make a joint application No. 341,687

A Under an impression that they were joint inventors.

36 Q Do you know what each contributed to the invention?

A James F. Gilliland invented the drag, which was used to prevent the jarring when the phonograph arm was returned,

to prevent throwing the phonograph out of adjustment.

37 Q Does that drag appear in Exhibit A?

A Yes; it is a part of the mechanism that is mounted on the outside of the box, and is shown in figures 13 and 14, U V u' u", drawings of their joint application.

38 Q Who invented the rest of it?

A Mr. Keller invented all of the balance of the machine that pertains to the manipulation of the phonograph; in fact everything except a locking device controlling the lever, herein shown, which I invented, which is shown in a patent to myself No. ~~443,254~~.

39 Q When did you discover that there was a mistake made in that joint application?

A When interferences were declared in the Patent Office, and we began to investigate the early history of the business, we found that the machine comprehended devices that were invented at different dates by different men. Steps were taken without delay to correct this mistake by filing new sole applications of Keller.

40 Q Did you have an interest in his inventions?

A I did.

41 Q Have you still, an interest?

A I have not, either direct or indirect, in the inventions that relate to the Automatic Phonograph.

Eugene T. Gilliland

The hearing was adjourned until 11 o'clock

March 15th.

New York, March 15th, 1892.

Met pursuant to adjournment.

CONVERSE D. MARSH, being duly sworn doth depose and say, in answer to interrogatories proposed to him by Thomas Ewing, Jr., Esq., Counsel for Albert K. Keller, as follows, to-wit:--

1 Q Will you state your name, residence and occupation?

A Converse D. Marsh, No. 49 Upper Mountain Avenue, Montclair, New Jersey; Selling Agent Electrical appliances.

2 Q How long have you been engaged in this occupation?

A Three and a half to four years.

3 Q I herewith hand you a machine introduced into evidence by Albert K. Keller, one of the parties to this interference, and marked Keller's Exhibit A. Can you identify that machine? ~~as the same machine?~~

A I can identify the principles of its working.

4 Q How can you identify those principles?

A By the four dogs which impinge upon the coin when introduced, constituting the coin operated lock and the lever which pushes the cross heads, breaking the circuit at one end and making it at the other, and on return remaking the connection which was first broken, thus completing the circuit. And the catch operated by the phonograph arm, which releases the crossheads and secures the lifting and return of the phonograph arm by a weight.

5 Q You say that you cannot identify this particular machine, but that you recognize its principles. Can you state

you have seen
whether or not this ~~is the same~~ machine?

- A No, I can not.
- 6 Q How did you become familiar with these principles that are embodied in this machine?
- A By seeing such a machine in operation in Adrian, Michigan.
- 7 Q Where, in Adrian, Michigan?
- A At the Gilliland Electrical Company's Factory.
- 8 Q About what time?
- A It was about the last of december 1889.
- 9 Q What can you say as to the size of the machines that you then saw?
- A Full-size, as near as I can recall; about the size of Exhibit A.
- 10 Q How complete were the machines at that time?
- A It was all done as near as I can recollect.
- 11 Q What was its capacity for work?
- A It seemed perfectly satisfactory, and as I was going to use them, I was very much delighted with them at that time.
- 12 Q Did you make any test of them?
- A I am not sure whether I operated it or it was operated for me, but I know that it was operated several times in my presence.
- 13 Q How was it operated?
- A By dropping a nickel in the slot.
- 14 Q Did you see only one machine at that time?
- A Machines were taken apart and put together there, and I could not tell you how many machines I saw.

15 Q Do you know what became of the machine you then saw?

A I do not.

16 Q Do you know what became of any of the machines that you have spoken of as being there at that time?

A No, I could not state positively because I left Adrian, Michigan, and came on to New York, leaving an order for a machine to be sent on so as to meet me in New York. I did not go directly to New York, but spent several days in Detroit.

17 Q When did you leave Adrian?

A About the first of January 1890.

18 Q Where did you go from petroit?

A I am a little mixed on that. I may have gone back to Adrian. I was running backwards and forwards between New York, petroit and Adrian a good deal about the first of that year.

19 Q Did you communicate with any body about that time in relation to sending you one of these machines to New York?

A I did.

20 Q With whom?

A Charles A. Cheever, President of the Metropolitan Phonograph Company, was one.

21 Q You saw the machine subsequently in New York?

A I unpacked part of it.

22 Q Where was it when you saw it?

A It was shipped to Ezra T. Gilliland's residence.

23 Q Did you ever see it afterwards?

A Yes.

24 Q Where?

A At Charles A. Cheever's apartments.

25 Q Any where else?

A No.

26 Q Can you state when you unpacked it?

A Not positively.

27 Q Can you state about when it was?

A It was during January of 1890.

28 Q I hand you herewith photographs, marked Keller's Exhibits C and D. What can you say as to the similarity between these photographs and the machine as you unpacked it at Gilliland's house?

A I should say it was the same machine.

29 Q As it was then mounted and everything?

A Yes.

Converse D. Marsh

*Adjournd to Me 22nd 1892
March 22nd 1892
Met pursuant to adjournment noted
on page 51.*

*Converse D. Marsh, being recalled
testified in answer to interrogatories propounded
to him by Thomas Ewing, Jr. as follows: March 22nd 1892*

1 Q Where is your place of business and how long have you been there?

A No. 136 Liberty Street, New York City.
I have been there about six months.

Converse D. Marsh

*Adjournd to meet at 15 Berg St.
N.Y. City at the office of Ezra T. Gilliland
at 4 o'clock P.M. to-day*

FELIX GOTTSCHALK, being duly sworn doth depose and say, in answer to interrogatories proposed to him by Vernon M. Dorsey, Esq., Counsel for Albert K. Keller, as follows, to-wit:--

1 Q What is your name, residence and occupation?

A Felix Gottschalk, 67 East 90th Street, New York City. President of the Automatic Phonograph Exhibition Company of New York.

2 Q Do you know Albert K. Keller, one of the parties to this interference, and if so, how long have you known him?

A I do. I have known him at least four or five years..

3 Q Will you please examine the machine which has been introduced into this case as Keller's Exhibit A, and state if you ever saw this machine before?

A I saw that machine, or a duplicate of it, I can't state which.

4 Q Do you know whether another machine was ever made similar to this, and if so, at what time was it made?

A There was another machine, as near as I can remember, an exact duplicate, received in New York about the same time.

5 Q Will you please ^{state} when and where you first saw one of these machines?

A The first machine of this description I saw at the residence of Mr. Ezra T. Gilliland in January 1890.

6 Q Can you state positively whether or not this is the machine you so saw?

A I cannot state by any mark that it is the identical

machine, but it appears to be.

7 Q Describe the circumstances under which you first saw it at the residence of Mr. Gilliland?

A Mr. Charles A. Cheever, on behalf of himself as well as myself, had been in correspondence with Mr. Converse D. Marsh, with reference to nickel in the slot machines, and at our request Mr. Marsh had a machine shipped to New York, and on its arrival Mr. Cheever and I were invited to Mr. Gilliland's house to inspect the same.

8 Q On what day did you go there?

A I am quite positive it was on a Friday evening on towards the last of January 1890, probably between the 15th and 25th

9 Q Do you know how many people saw it at the residence of Mr. Gilliland?

A No. The evening I was there, there was present Mr. Gilliland, Mr. Marsh, Mr. Cheever and myself and Mr. Cheever's servant and Mr. Gilliland's type-writer.

10 Q Where did you next see this machine?

A At the residence of Mr. Charles A. Cheever.

11th Q Did you at any time test the machine?

A Certainly, I tested it at Mr. Gilliland's house, not once but perhaps twenty times.

12 Q What was the character of the operation of the machine?

A It worked very satisfactorily.

13 Q How did you unlock the machine?

A By putting a coin in the slot ~~xxxx~~ and pulling a lever.

14 Q Did you test the machine at Mr. Cheever's house?

A At least five hundred times.

15 Q Why did you test it to such an extent?

A Knowing the weakness of many nickel in the slot machines for other purposes, I determined to give this machine a thorough test, and therefore on several occasions we devoted perhaps an hour at a time in testing the same. In fact I requested other parties to do their best to get the machine out of order.

16 Q What followed the result of this test?

A The tests were very satisfactory. The machine to my knowledge never got out of order.

17 Q How many people do you know saw it at Mr. Cheever's apartments?

A At least 25 or 50.

18 Q Who were those people that saw it?

A Representatives of phonograph companies or capitalists.

19 Q How did they unlock the machine?

A By putting a nickel in the slot.

20 Q What became of the nickels so put in?

A It went into a safe.

21 Q Was it possible for the persons operating the nickel to recover the money?

A No.

22 Q What became of the money that was so put in the safe?

A When the machine first arrived at Mr. Cheever's house, Mr. Albert K. Keller had the keys to the safe. Afterwards the same were handed to me.

23 Q During the time that Mr. Keller had the keys who received the nickels?

A When I got the keys I collected the money.

24 Q How much did you take out of the safe while the machine was at Mr. Cheever's residence?

A I cannot tell exactly, but I know that I collected all told, during the time the machine was at Mr. Cheever's and at the Metropolitan Phonograph Company's Office, over five dollars.

25 Q To what purpose did you apply the money you took out of the machine?

A About that time the Automatic Phonograph Exhibition Company was formed, and I used this money for paying the petty expenses incurred before that company was incorporated.

26 Q What was the date of ~~the~~ incorporation of the Automatic Phonograph Exhibition Company?

A The 8th day of February, 1890.

27 Q Were you one of the Incorporators of the company?

A Yes..

28 Q When was the machine you saw at Mr. Cheever's residence taken to the Rooms of the Metropolitan ~~Telephone~~ ^{Phonograph} Company?

A Towards the latter end of January or the beginning of February 1890. It must have been between the day the machine arrived--that is when I first saw it was about the 20th of January-- and the date of the incorporation of our company, which was the 8th day of February 1890.

29 Q Do you know how long the machine was in Mr. Cheever's Rooms?

A The machine was there, on and off, for perhaps ten days.

30 Q Do you know how long after it was at Mr. ~~Sherrill~~ Gilliland's that it was taken to the room of Mr. Cheever's?

A Within a few days.

31 Q Were you an officer of the Metropolitan Phonograph Company?

A I was Secretary of the Metropolitan Phonograph Company..

32 Q What business was carried on by the Metropolitan Company?

A The renting and leasing of the Edison Phonographs in the City of New York and the vicinity.

33 Q Where was the machine placed in the office of the Metropolitan Phonography Company, and what was the character of that office and of the place where the machine was placed, as to publicity?

A The doors were never locked. ^{during weekdays} It was open to the public from eight o'clock in the morning until six o'clock at night. There ^{were} ~~was~~ as high as five hundred visitors a day, and in fact it was the same as any ordinary office of a company doing a large business.

34 Q Where was it placed in the office?

A To the right as you came into the door, to the best of my knowledge. It was then shifted within a day or two opposite the door, so that people coming into the room could not help but see it.

35 Q Was it conspicuous in its place on the right of the door?

A Every one could see it, because it was near the secretary or the president's desk.

36 Q Was there an invitation to the public to use the machine so, placed?

A There was a back board attached to the cabinet of the machine, in which a card was placed giving printed instructions how to use the machine.

37 Q How was the lever unlocked while in the office of the phonograph company?

A By the dropping of a coin in the slot.

38 Q Did you make any agreement as to the manufacture of these machines, and with whom?

A Our company, that is the Automatic Phonograph Exhibition Company, entered into an agreement with the Gilliland Electrical Company of Adrian, Michigan, on the 10th day of February 1890, for the manufacture of coin slot machines.

39 Q Was the machine you saw at Mr. Gilliland's residence, the apartment of Mr. Cheever, and the rooms of the Phonograph Company, attached to and operated in connection with a phonograph?

A Yes.

40 Q Will you please take the photographs marked Keller's Exhibits C & D. in this case, and state what these photographs represent?

A These are photographs of the machines exhibited at the Phonograph Company's Rooms, at Mr. Cheever's house, and at Mr. Gilliland's residence, at the time that I have specified.

41 Q Do you know under what circumstances these photographs were taken, and if so please state fully?

A I had about fifty sets of each of these photographs taken during the month of February or March by an amateur photographer, a friend of mine. My object in having these

photographs taken was to distribute them throughout the United States, amongst the various local phonograph companies, the machine as it would appear in service, as about that time I was ~~goingxxxx~~ trying to induce the various local phonograph companies to enter into an agreement with the Automatic Company for the use of our slot machines in their respective territories. I had these distributed throughout every state in the union.

42 Q When did you see Mr. Keller in New York in the year 1890?

A At Mr. Gilliland's residence or at Mr. Cheever's residence.

43 Q Was he at that time said to be an inventor of the machine exhibited?

A I understood at the time that he was one of the inventors of the slot machine exhibited.

Felix Gouschalck

Mr. Gouschalck: Attorney for Keller here introduces in evidence an abandonment of the application of Gilliland and Keller, Serial No. 340,687, filed February 17th 1890, for attachments to phonographs, the said abandonment being signed by Gilliland and Keller and by the Officers of the Automatic Phonograph Exhibition Company. He requests that this abandonment be marked Keller's Exhibit E., interference 15,095, and it is so marked. He also requests the examiner to forward the said abandonment to the Commissioner of Patents for a separate enclosure from the evidence in this case, and request the com-

C Commissioner to enter the said abandonment in said application.

Adjournment is hereby taken, until Monday March 21st, 1892, at 11 o'clock.

11. A M. March 21st 1892
Met pursuant to adjournment

47

SAMUEL W. BALCH, being duly sworn, doth depose and say in answer to interrogatories proposed to him by Thomas Ewing, Jr., counsel for Albert K. Keller, as follows, to-wit:--

1 Q Mr. Balch will you state your name, age, residence and occupation?

A Samuel W. Balch, age 30, residence Yonkers, New York; occupation, Mechanical Engineer.

2 Q I ~~here~~ hand you a machine, which has been introduced in evidence in this interference, and it is marked "Keller's Exhibit B". I herewith hand you also two sheets of drawings, on tracing linen, marked "Keller's Exhibit F".

Please state what you can say as to any relation that may exist between the drawings and the machines?

A These drawings were made by me between March 18th and March 21st, 1892, and are a precise full-size representation of the Exhibit, which you have named as Keller's Exhibit B.

In these drawings, figure 1, which covers sheet 1, is a front elevation of the machine, as it now appears, except that I have shown in dotted lines a cord and sheave and weight, which are not on the machine, but are intended to draw back the sleeve which carries the phonograph arm and nut. In all other respects all parts indicated on the drawings, are present in the Exhibit B.

Figure 2, on sheet 2, is an end elevation of the same machine, seen from the right of figure 1.

Figure 3, is a detailed view of a portion of the machine seen from the opposite side from which the same parts are shown on figure 1; and

Figure four is a top view of this same portion.

3 Q Will you state fully how much in detail you have worked these drawings out?

A On examining the Exhibit, I find that it consists of a phonograph proper with its motor, excepting the record, which from the style of finish of the various parts appears to be a regular article of manufacture.

I also find certain portions, most of which are shown in figures 3 and 4 of the drawings, appear from their rough character and unfinished appearance to have been subsequently added. The phonograph proper I have not shown with great elaboration of detail, merely giving the outlines as correctly as was practicable. The added portion, which forms the entire subject matter of figures 3 and 4, together with the block of wood upon which this is mounted and an arm consisting of two pieces of metal with two screws, which project into this added portion, this portion I have shown in precise details so that it could be reproduced in my judgment from the drawings I have given.

4 Q You have before you the two Exhibits. Will you carefully examine them and state how the machine operates and how its operation is apparent from the drawings?

A The phonograph proper I find mounted upon a wooden box. In

this box is an electro-~~magnet~~^{motor} consisting of a wheel bearing ten bar armatures and revolving in front of the poles of four pairs of electro magnets. This motor through bevelled friction wheels rotates a screw and a brass cylinder on which the phonograph record is carried.

On a back rod, at the rear of this screw ~~and~~^{and} cylinder, shown in the end view (figure 2), is a sleeve bearing two arms, one of which carries a half nut to rest against the screw, and the other to carry the stylus and diaphragm of the phonograph. From the parts bearing the diaphragm an arm projects and is guided by an adjustable rail. When this arm rests upon the top of the rail the sleeve is rotated and the half nut is lifted from engagement with the screw. On drawing the sleeve with its two arms to the left, as it would be drawn by means of the cord shown in dotted lines, the end of this arm on reaching the end of the rail will be ^{dr=}rested against a stop and fall through a notch, when it will permit the half nut to come in to engagement with the screw.

When by turning the phonograph cylinder and screw this is propelled to the right with the end of this arm projecting under the rail, it will at the end of its movement be lifted by a spring, and immediately on passing beyond of this rail, as shown clearly in figure 3, the arm will be lifted by the spring and then the half nut will be again lifted from engagement with the screw thread. If a pressure is brought to bear on the sleeve and its attach-

ments, to draw it in the direction in which it would be pulled by the cord, the end of this arm will ride upward on the incline of the rail and will be arrested by a catch which is formed on the end of a piece of ~~iron~~ iron the other end of which forms the armature of a pair of electro magnets. *P* In all positions of the arm projecting from the phonograph, except the position last named, I find that a spring rests against a contact strip ~~bound~~ *but* over the end and attached to a ~~block~~ *rubber* block.

To this spring ~~is~~ *and* this contact strip there are two wires attached. When the arm projecting from the phonograph is in the position last above named the horizontal arm of this spring is lifted and the contact is broken, and the upright portion of this spring is brought nearly into contact with a second spring shown to the left in figure 3, and to the right in figure 1.

This second spring is also attached to the same rubber block by two screws and connects with the electro magnets, from the electro magnet is the third *wire* leading off from this device.

5 Q What do you mean by saying that portions of this device appeared to be subsequently added, by their rough character and finish?

A They appear to be subsequently added because there appears to be no especial provision made for them in the construction of the phonograph proper. They further are not as finely polished or japanned as the parts of the phonograph. This lack of finish in no way interferes with the

proper working of the mechanism.

Samuel W. Balch

Adjourned until March 22nd, 2 P. M.

March 22nd, 2, P. M.

Met pursuant to adjournment
~~Adjourned to~~

Examination of Converse D.
Marsh continued. (See page 38)

15095
In answer to interrogatories propounded
to him by Thomas Ewing Price, as follows:

Q. 1. Can you fix the date of your
becoming the general agent of the
Phonograph Company of which
you have spoken?

A. By an agreement entered into
~~and~~ between the Edison Phonograph
Company and myself dated
28th day of October 1887, I was
appointed its general agent for
the sale of all their phonographs
and supplies in the United States
and the Dominion of Canada.

Q. 2. Were the Edison Phonograph
Company prepared to do busi-
ness elsewhere than in the
United States and Canada.

A. No.

Q. 3. You have stated that the
Edison Phonograph Company
owned all of the Edison
Phonograph patents. Will
you state more fully what the
nature of this contract was?

A. Thomas A. Edison agreed to
assign to the Edison Phonograph
Company all of his ^{patents,} patent
applications, and existing and
future inventions.

E. G. Lilland

Adjourned to 155 Broadway
at 5:30 o'clock to-day.

54
X

March 22nd, 1892, ^{5:30} P. M.

Met pursuant to adjournment.

Samuel W. Balch, being re-called, in answer to questions propounded to him by Thomas Ewing, Jr., Esq., testifies as follows:--

1 Q I herewith hand you Keller's Exhibit A, and two sheets of drawings marked Keller's Exhibit G, sheet 1, and Keller's Exhibit G, sheet 2. Will you please state what you know as to any relation that may exist between these drawings and Exhibit A?

A These drawings are the full-sized representations of the said Exhibit A.

2 Q Please explain the different figures that you have here drawn, and state in what detail they represent the exhibit?

A On sheet 1, I have shown three views of the machine as a whole. Figure 1, is a top view of it; figure 2, is a side elevation with a portion of the casing broken away in order to disclose the mechanism within; and figure 3, is a view from the end, in which the outer casing is drawn in section, so that the interior mechanism may be disclosed in view.

Sheet 2, figures 4 and 5, each show in three projections taken similarly to the first named figures, the two cross-heads which I find in the machine, and composed the sliding parts of it. These respective views show the mechanism in as much detail as it would be obviously

practicable for such views to represent the parts, and in them I believe I have disclosed all the elements pertaining to its operation..

3 Q Will you state how accurately a competent mechanic could reproduce the exhibit from these drawings?

A He could reproduce the exhibit from these drawings, in my opinion, so that it would have the precise size and general outline and operate precisely as the said Exhibit.

4 Q Please state of what ~~xxx~~ materials the Exhibit is composed?

A The Exhibit is made almost entirely of brass, pins and rods and springs being all iron. The outer casing is *Coated* with black japan, and the mechanism of the machine is whitened with nickel. There are also two small blocks which are of rubber, to insulate strips of metal attached to them, from each other.

5 Q How complete is the Exhibit as you now see it and as it is represented in your drawings?

A The Exhibit A, and the drawings are identical in the parts present. In putting the Exhibit through a cycle of its operations, I find it necessary to draw upon the cords as they would be drawn upon by weights attached to them. I find at the top of the casing lugs with tapped holes for screws, and a screw at the opposite end of the casing, which indicate to me that they are intended to hold a cover upon the casing.

One of the tumblers in the crosshead does not appear to me to have any function in the cycle of operations,

and it seems to be an indication of the absence of some
part, which I do not know. This tumbler has a long^{er} down-
ward projection, than the other three tumblers, and a hook
upon the end of it, upon which a coin is supported when it
drops through the coin shute.

6 Q Will you please state the operation of the Exhibit before
you, following in your explanation of the operation the
drawings which are here presented?

A When the two cords are drawn tight so that the crossheads
shown in figures 4 and 5 are drawn as far to the left as
possible, the machine is in its initial position. When a
~~point~~^{Coin} is deposited in the orifice it drops through a shute
laying in the round portion shown in the three first fig-
ures, and falls between a channel formed by the two cross-
heads laying against each other. At the bottom of this
channel is a projection from the tumbler above named which
prevents the coin from falling through.

If the handle is now drawn over to the right,
it carries with it the crosshead shown in figure 4, and
pushes the crosshead shown in figure 5 to the right.
When the crosshead shown in figure 5, reaches its extreme
position to the right, it is caught by a hook, and it al-
lows a *bale*, which lies in front of an opening in
the side of the casing, to rise a slight distance. If now
the handle is released, a tension is maintained on the
cords, the crosshead~~s~~ shown in figure 4, returns to its
position at the extreme left and depresses a catch.
When the two crossheads are in thesetwo positions, one at

the extreme right and the other at the extreme left, a projection of each, shown on the farthest side presses between strips of metal insulated from each other and supported on rubber blocks at either end of the frame work.

When these two electrical connections are made in this manner, there is established a course for an electric current from a *binding* screw near the bottom of one of the rubber blocks, across an insulated wire to a *binding* screw near the bottom of the other rubber block.

Now to return all the parts to the initial position, it is necessary to depress a catch at the right which may be reached through the opening in the casing, and upon drawing upon the cord the crosshead shown in figure 5, will travel to the left. The drum over which the cord passes has a ratchet which engages with a ~~rod~~ *pawl* on the side of a gear. This gear meshes with a pinion on a spindle to which a fly-wheel is attached, so that the crosshead is prevented from returning with great speed.

The cords from the crosshead pass over two drums loose on a shaft. The above mentioned gear is also loose ~~from~~ *on* the same shaft and lies between them. Both of these drums are provided with ratchets. In only one of these ratchets however, is there ~~a pawl~~ *a pawl acting* to make them of service. ~~The other ratchet~~ *The other ratchet* ~~The horizontal projecting arm~~ has no function. At the right of the casing is a door to which a lock is attached. The function of the catch at the left shown in figure 2, appears to be to prevent the crosshead shown in

figure 5, from fully returning unless the crosshead shown in figure 4, is first back to its position, as it has a pin projecting from it to cam this catch downward and out of the way of a projection on the crosshead shown in figure 5. When the crosshead shown in figure 5, is entirely back to its place to the left, a small screw projecting from it presses against the end of a lever at the side of the coin shute. This ^{operates} ~~regulates~~ that lever so as to uncover the top of the shute and enable a coin to be deposited therein. When this crosshead is in any other position, this lever springs back and covers the end of the coin shute within the round case so that no coin can be placed in it.

Samuel W. Balch

Notice is hereby given that the copy of the United States Patent, No. 443,254, to Ezra T. Gilliland, on file in the United States Patent Office, will be relied on to prove what is therein shown.

59
X

THOMAS ESWING, JR., being duly sworn makes the following statement:

It was intended to call Mr. George H. Sonneborn, before whom the Gilliland and Keller application, Serial No. 340,687, was signed and sworn to, to prove the date of the execution of the specifications and oath. I personally saw Mr. Sonneborn on Friday or Saturday of last week, and he promised to attend and testify yesterday. Relying on this promise, I issued no regular subpoena. I personally called on him on Monday to make an appointment for that day, but found him out of his office. I subsequently sent a special messenger asking him to call, and as he did not call, wrote Monday night and mailed the letter to him, asking him to call to-day at two, o'clock.

As he did not come at this time, I sent a special messenger again asking him to come, and received word that he was out, but that I would be answered when he returned. He has not come, and the afternoon is now passed. I am unable to give any reason for his failure to attend.

Thomas Ewing, Jr.
Attorney for Keller.

State of New York,)
) SS.
City and County of New York,)

I, Paul Gorham, a notary public within and for the County of Kings and State of New York, with certificate thereof filed in New York County in said State, do hereby certify that the foregoing depositions of Albert K. Keller, Felix Gottschalk, Ezra T. Gilliland, Charles A. Cheever, Converse D. Marsh, Samuel W. Balch and Thomas Ewing, Jr., were taken on behalf of Albert K. Keller, in pursuance of the notice hereto annexed. before me, at New York City, on the 14th, 15th, 21st and 22nd days of March 1892; that each of said witnesses was by me duly sworn before the commencement of his testimony; that the testimony of each of said witnesses was taken down by me stenographically and afterwards typewritten in my presence by E. J. Bunker and J. M. May, except such parts as were written in my handwriting; that the opposing parties, L. F. Douglass, W. L. Madgen, and Glass and Arnold, were absent and were not represented, during the taking of said testimony; that said testimony was taken at No. 155 Broadway, New York City, and was commenced at 11 o'clock A.M. on the 14th day of March 1892, was, pursuant to adjournment, continued on the 15th and 21st of March 1892, and ~~was~~ concluded on the 22nd day of said month; that I am not connected by blood or marriage with either of said parties, nor interested directly or indirectly in the matter in controversy.

In Witness Whereof I have hereunto set my hand and

affixed my seal of office at New York City, in said County,
this 24th day of March 1892.

Paul Gorham

Notary Public,
Kings Co., N. Y.
CERT. FILED IN N. Y. CO.



In the matter of the interference between the applications of Albert K. Keller, the patent No. 431883, granted July 8, 1890 to L. F. Douglass, the application of W. L. Madgen, the application of Gilliland and Toppan, the patent No. 428750 granted May 27, 1890, Glass and Arnold, and the application of Glass and Arnold, for Phonographs, now pending before the Commissioner of Patents? (No. 15095)

F. W. Ritter, Jr. Atty for Douglass

Richards and Co. Atty for Madgen.

A. H. Evans and Co: Attorneys for

A. L. Morsell Glass and Arnold.

Gentlemen:-

You are hereby notified that on Monday, March 14th, 1892 at twelve o'clock noon at the office of Thomas Ewing, Jr., No 155 Broadway, New York City, New York, I shall proceed to take the testimony of Converse B. Marsh, Charles A. Cheever, Ezra T. Gilliland, Albert K. Keller and Felix Gottschalk, all of New York City, New York, as witnesses in my behalf.

The examination will continue from day to day until completed. You are invited to attend and cross examine.

You will also please take notice that at the hearing of case I will introduce in evidence an application filed by the said Albert K. Keller and James T. Gilliland on the 7th day of February 1890 for Automatic Attachments for Phonographs, which has been serially numbered 340687, and the Hon. Commissioner of Patents is hereby authorized to permit you or your duly appointed agent to examine the file of the said case during the pendency of this interference.

Washington, D. C.

Albert K. Keller

March 9, 1892.

by his Asso. Attorney.

Thomas W. Dancy

Service of the annexed notice acknowledged this ninth day
of March, 1892.

Timothy H. Ansey
Asso. Atty for Gilliland and Toppan.

Richards & Co.
Attorney for Madgen.

A. H. Evans & Co.
Attorneys for Glass and Arnold.
(in the patents)

A. L. Morrell
Attorney for Glass and Arnold.
(in the application)

District of Columbia.

County of Washington.

Personally appeared before me, a notary public

Vernon M. Dorsey, Associate Attorney for the above named Albert K.

Keller, who being duly sworn deposes and says that he served the

above notice upon E. W. Ritter, Jr., the attorney of the said

L. E. Douglass at 4 o'clock p. m. of the 9th day of March, 1892

by leaving a copy with him the said E. W. Ritter, Jr., in person.

Vernon M. Dorsey

Sworn to and subscribed before me at Washington, in

the District of Columbia, this 10th day of March, 1892.

J. Ross Cochran
Notary Public



In the United States Patent Office. :

Madgen

VS

Glass & Arnold

VS

Douglass

VS

Gilliland & Toppan

VS

Keller.

: Interference

: No. 15095.

Sir:

You are hereby notified that on Monday, March 21st, 1892, at the office of Thomas Ewing, Jr., Esq. No. 155 Broadway, New York City, N. Y. at 11 o'clock in the forenoon I shall proceed to take before Paul Gorham, Esq., a notary public the testimony of Samuel W. Balch, Esq. of Yonkers, Westchester County, N. Y. and George H. Sonnenborn, Esq., of New York City, N. Y. as witnesses in my behalf.

The examination will continue from day to day until completed. You are invited to attend and cross-examine.

Albert K. Keller, by

Thomas Ewing, Jr.

His attorney.

Service of the above notice acknowledged this 17th., day of March, 1892.

William L. Madgen, by

William L. Madgen

His attorneys.

Service of the annexed notice acknowledged this 18th day of Ma
March, 1892

Attorney for Douglass.

A. H. Evans & Co

Attorney for Glass and Arnold.

(in the patents)

Arthur L. Moscell

Attorney for Glass and Arnold.

(in the application.)

District of Columbia

County of Washington.

Personally appeared before me a Notary Public
the above named Vernon M. Dorsey, Associate Attorney for the said
Albert K. Keller, who being duly sworn deposes and says that he
served the annexed notice upon F. W. Ritter, Jr, the attorney of the
said Douglass, by ~~xxx~~ placing a copy thereof in an envelope address
to the ~~office~~ said F. W. Ritter, Jr. 608 E. Street, N. W., Washington
D. C., the postage on the said letter being duly prepaid, that he
had the said letter registered and has annexed the receipt therefor
this affidavit and that he deposited the said letter in the post of-

Registered {LETTER} No. 5212, P. O., Washington, D. C. o'clock in

RECEIVED

3/18

, 1892, of *Vernon M. Dorsey*

a {Letter} addressed to *Albert K. Keller*

{Parcel}

HENRY SHERWOOD, P. M., per *Henry Sherwood*

Notary Public.

Service of the annexed notice acknowledged this 18th day of March, 1892

Attorney for Douglass.

A. H. Evans & Co.

Attorney for Glass and Arnold.

(in the patents)

Arthur L. Mosell

Attorney for Glass and Arnold.

(in the application.)

District of Columbia

County of Washington.

Personally appeared before me a Notary Public the above named Vernon M. Dorsey, Associate Attorney for the said Albert K. Keller, who being duly sworn deposes and says that he served the annexed notice upon F. W. Ritter, Jr, the attorney of the said Douglass, by ~~xxx~~ placing a copy thereof in an envelope address to the ~~office~~ said F. W. Ritter, Jr. 608 E. Street, N. W., Washington D. C., the postage on the said letter being duly prepaid, that he had the said letter registered and has annexed the receipt therefor to this affidavit and that he deposited the said letter in the post office at Washington D. C. at four o'clock in the afternoon on March 18th, 1892.

Vernon M. Dorsey

Sworn to and subscribed before me this 18th day of March, 1892.

Lewis J. Smith

Notary Public.

15095 56

Becker v. Douglass
v.
Madgen et al.

Interference dissolved
Mar. 29-'92.

G. L. M.

(2--067.)

DEPARTMENT OF THE INTERIOR.

United States Patent Office,

Washington, D. C., March 29th 1892.

IN RE INTERFERENCE

Keller v. Douglass v. Madgen

No. 15,095.

Before the Examiner of Interferences.

Gilliland & Toppan v. Glass & Arnold.

Coin Operated Phonograph.

A. K. Keller, C/o V.M. Dorsey, # 918 F. St., City.

Gilliland & Toppan, C/o " " " " "

L.F. Douglass, C/o F.W. Ritter, City.

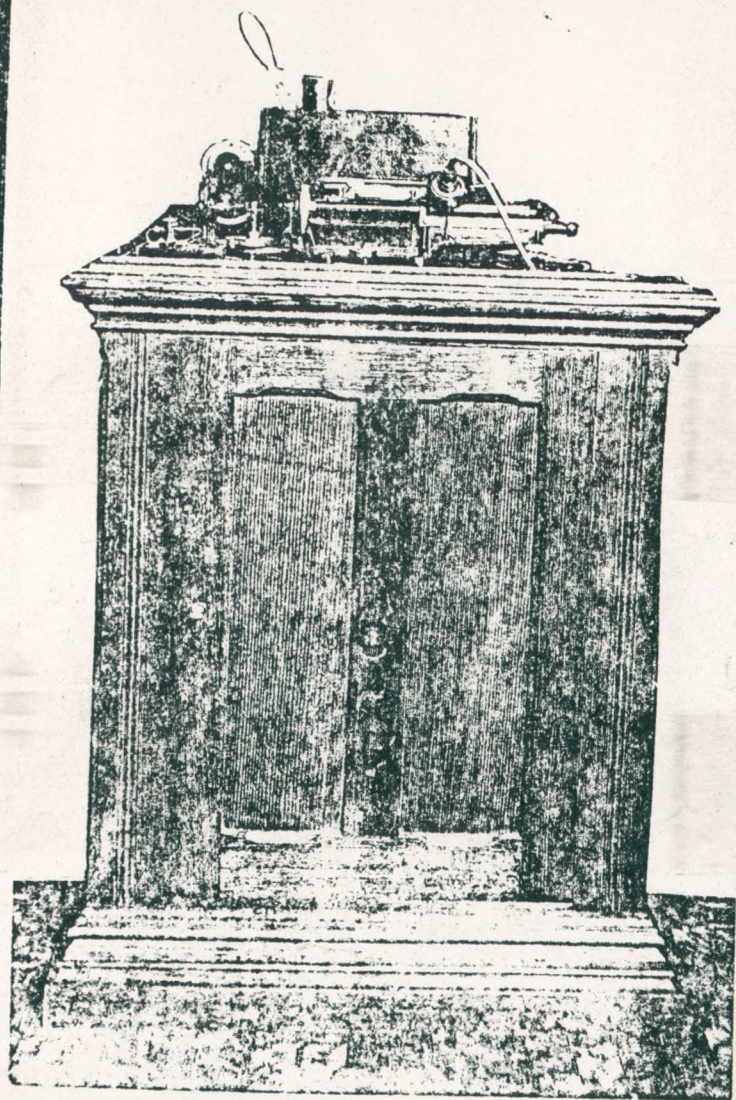
Wm. L. Madgen, C/o Richards & Co., City.

Glass & Arnold, C/o A.H. Evans & Co., City.

Glass & Arnold, C/o A.L. Morsell, City.

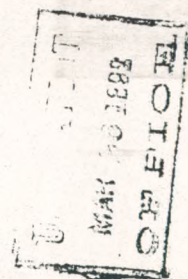
On the 10th day of March, 1892, the primary examiner dissolved this interference with respect to the patents of Glass & Arnold and of Douglass, on the grounds of the motion pending before him at that date, and on his own motion, the primary examiner dissolved as to the remaining parties. Said decision having become final by reason of the expiration of the limit of appeal, and no appeal having been taken, it is ordered that the said decision be spread upon the interference records and the application files and papers of the respective parties be forthwith transmitted to the primary examiner.

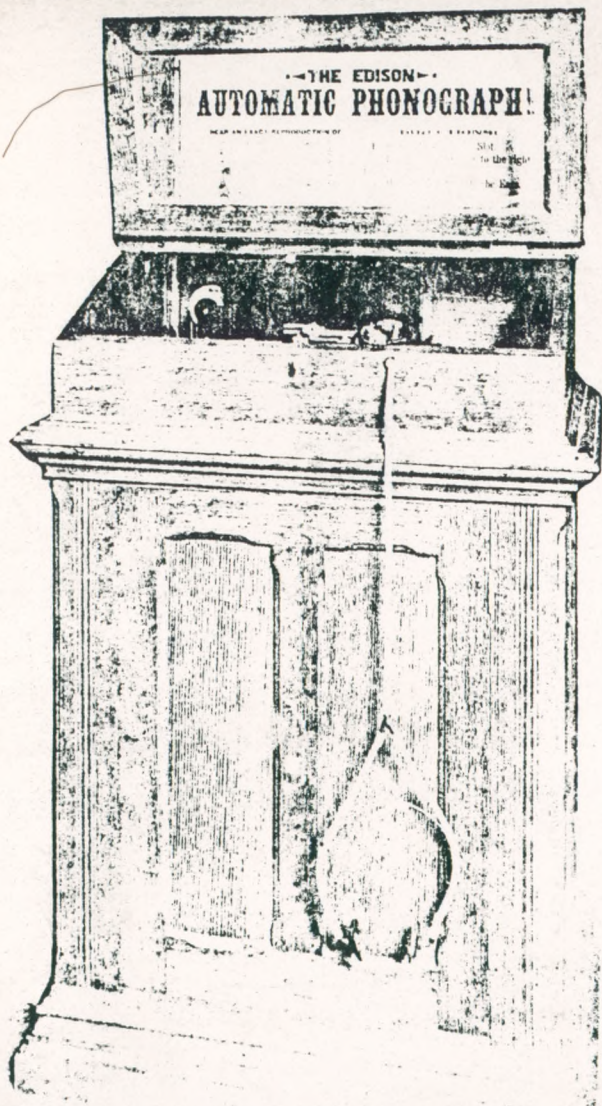
Walter Johnson
Examiner of Interferences.



Entrances 15095 and 15092.
Keller's Exhibit C.

Paul Gorham
Notary Public
Mch 14/92

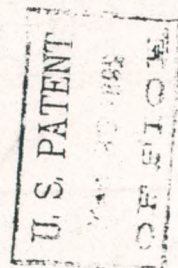




Interference 15092 and 15095
Kellie's Exhibit D.

Paul Gorham

Dec 14/92 Notary Public



PATENT
MAR 23 1888
OFFICE

Interferences 15,095. and 15,082.

Keller's Exhibit F.

March 21. 1892.

2 Sheets-Sheet 2.

Paul Gorham

Notary Public.

Fig. 2.

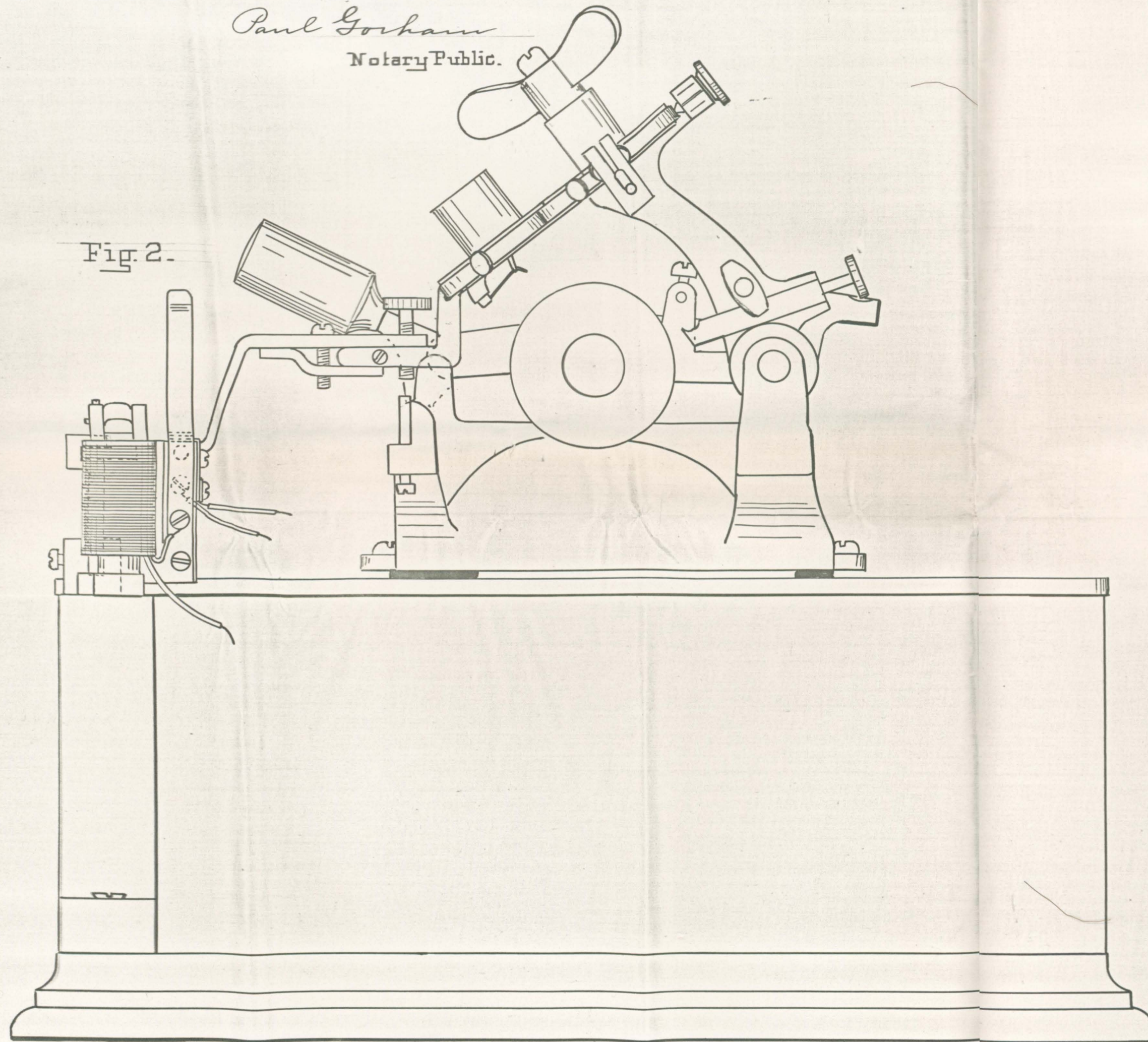


Fig. 4.

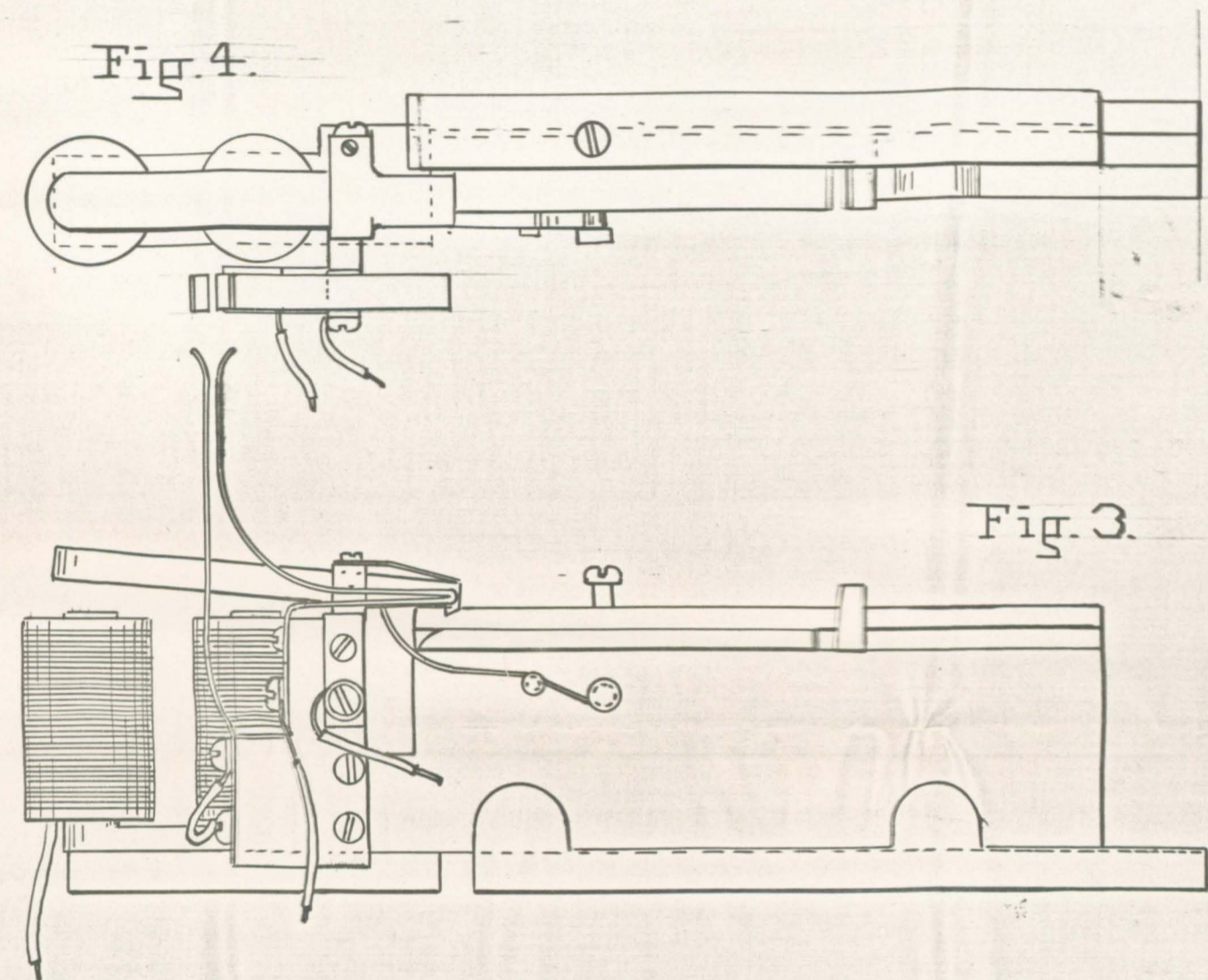


Fig. 3.

C. W. Balch
Draftsman.

Interferences 15,095 and 15,096

Keller's Exhibit G.

March 22, 1892, 2 Sheets Sheet 1.

Paul Gorham
Notary Public.

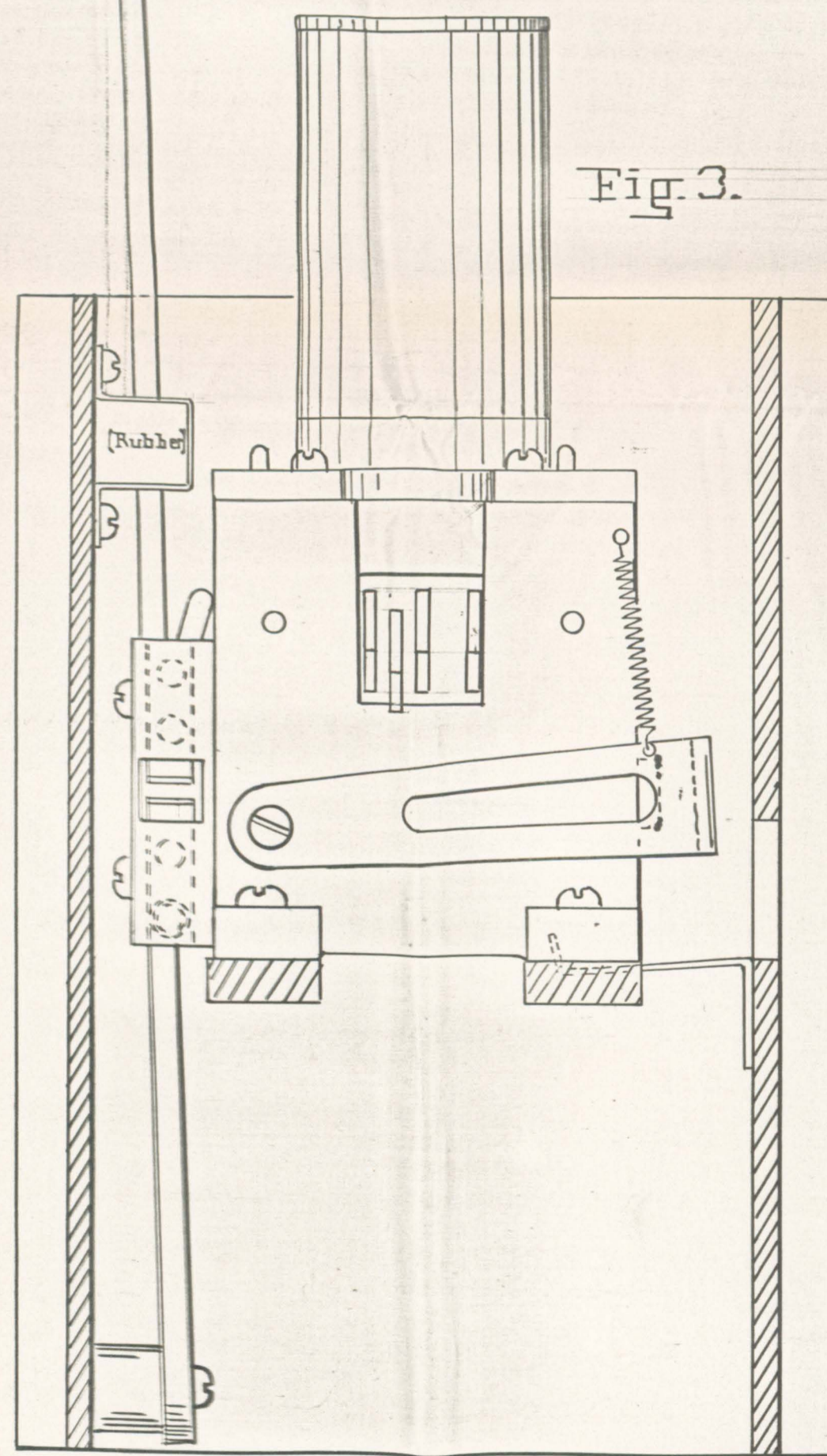


Fig. 3.

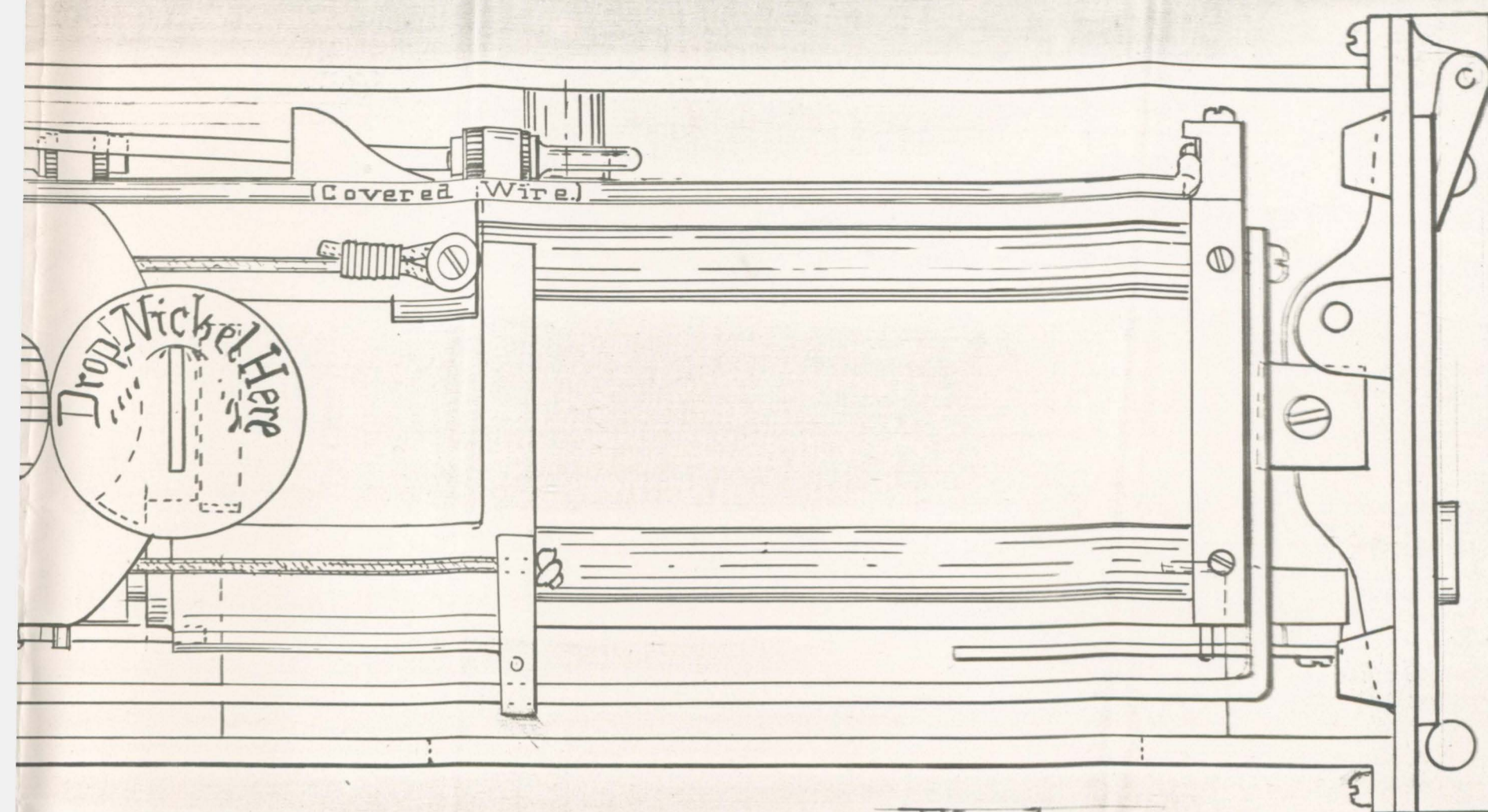
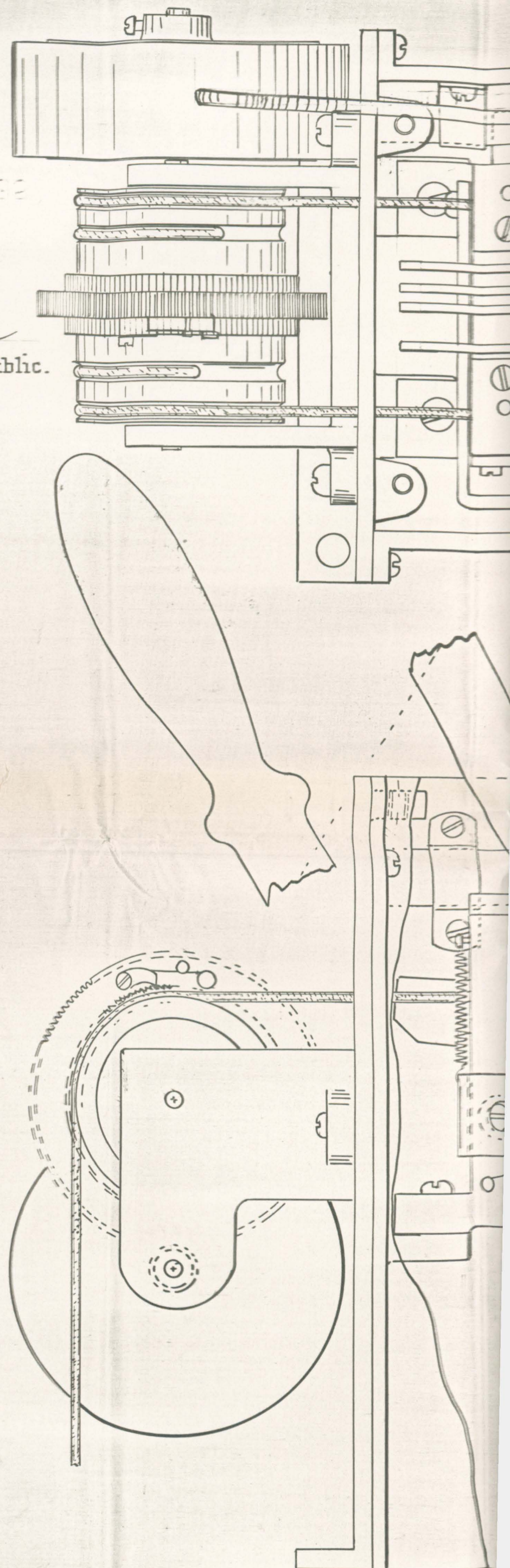


Fig. 1.

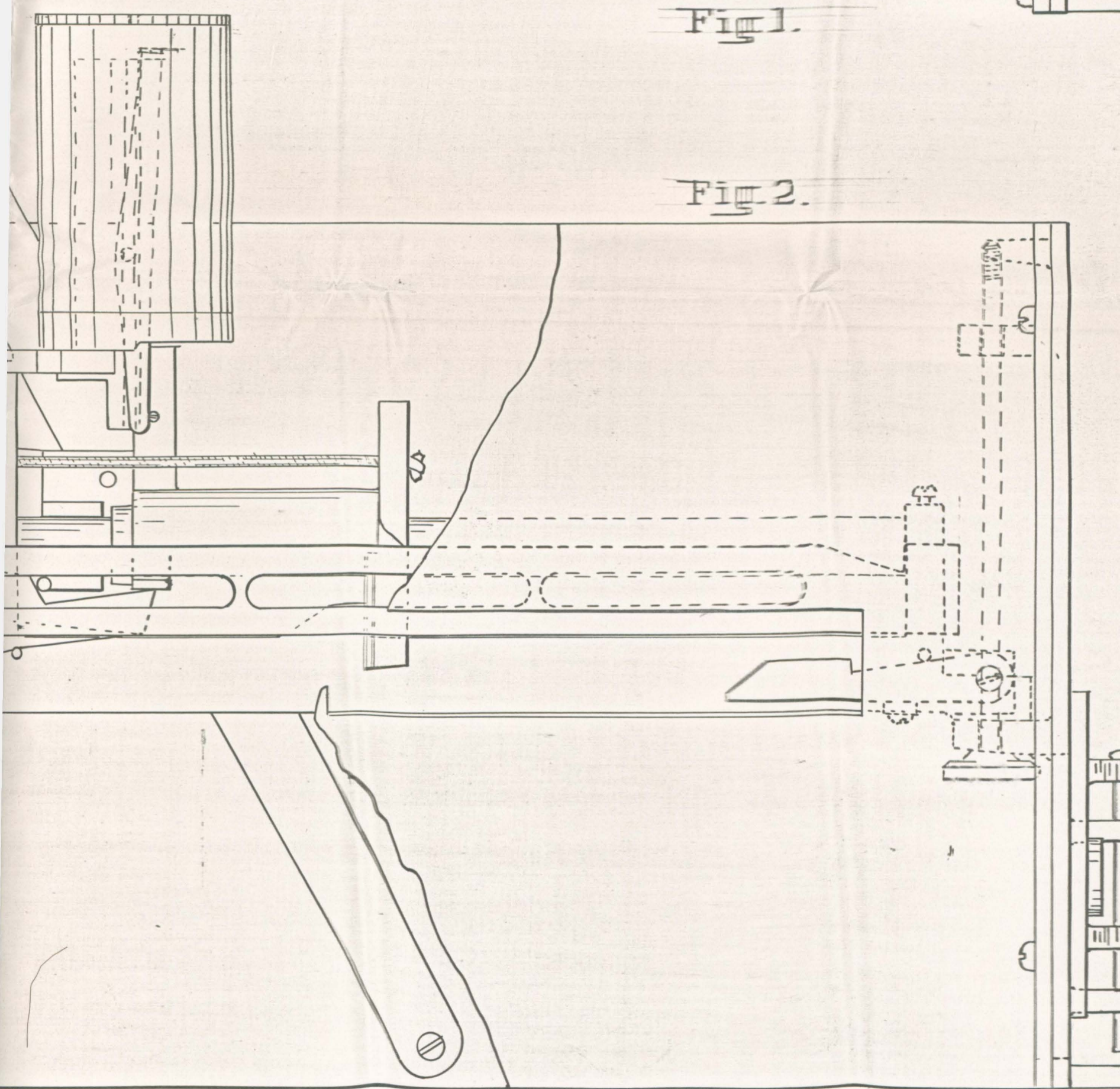


Fig. 2.

J. W. Balch
Draftsman.

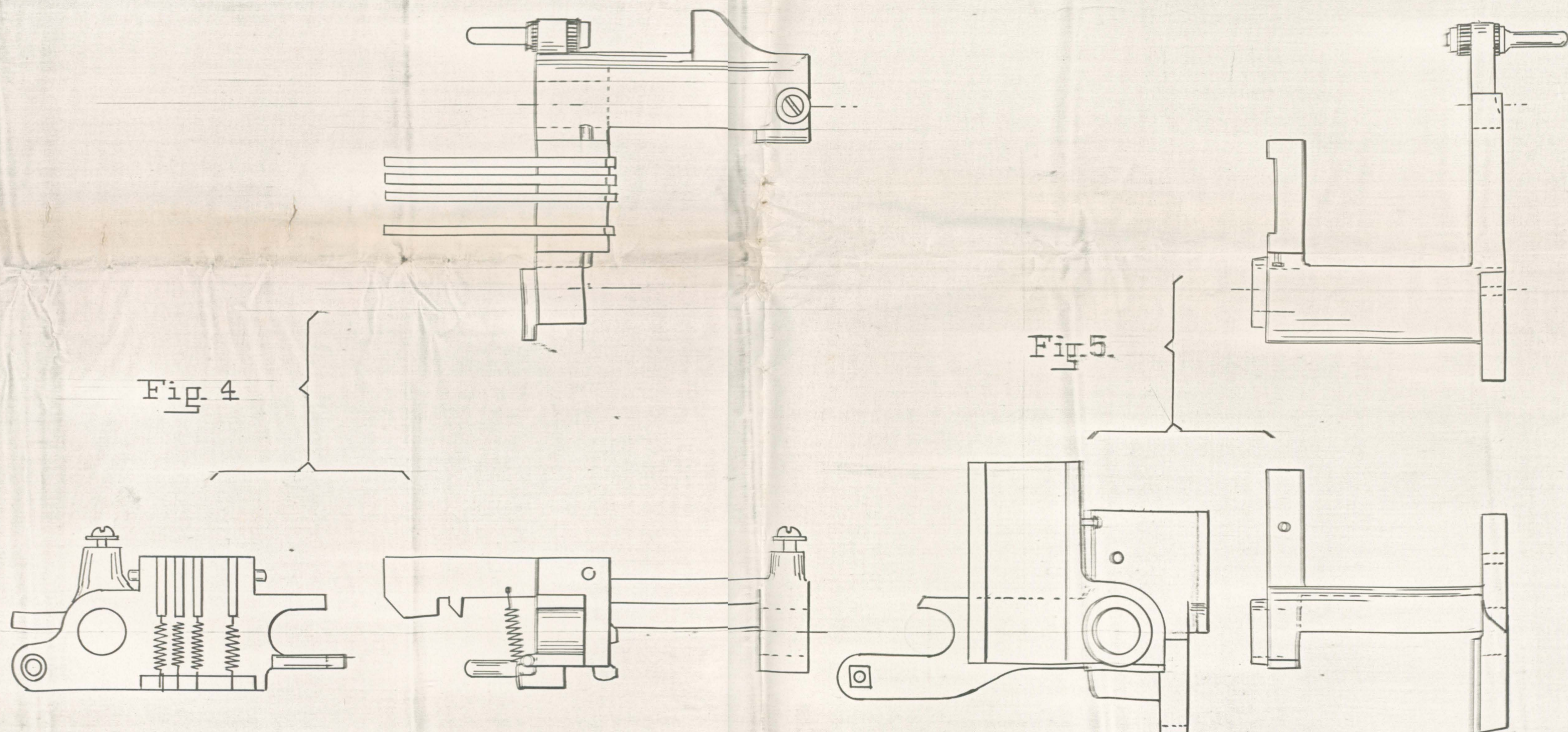
Interferences 15 095 and 15 092.

Keller's Exhibit G.

March 22, 1892.

2 Sheets Sheet 2.

Paul Gorham
Notary Public.



G. W. Balch
Draftsman.